

AMENDED IN ASSEMBLY SEPTEMBER 10, 2009

AMENDED IN ASSEMBLY SEPTEMBER 4, 2009

AMENDED IN ASSEMBLY AUGUST 18, 2009

AMENDED IN ASSEMBLY JULY 14, 2009

AMENDED IN ASSEMBLY JUNE 23, 2009

AMENDED IN SENATE MARCH 24, 2009

AMENDED IN SENATE MARCH 12, 2009

AMENDED IN SENATE FEBRUARY 17, 2009

AMENDED IN SENATE JANUARY 29, 2009

## SENATE BILL

**No. 14**

---

**Introduced by Senators Simitian, Kehoe, Padilla, and Steinberg**

*(Principal coauthor: Assembly Member Krekorian)*

**(Coauthors: Senators Alquist, DeSaulnier, Leno, Lowenthal,  
Romero, and Wiggins)**

*(Coauthor: Assembly Member Jones Coauthors: Assembly Members  
Jones and Skinner)*

December 1, 2008

---

An act to add Section 705 to the Fish and Game Code, to amend Sections 25740, 25740.5, 25741, 25742, 25746, 25747, and 25751 and 25741 of, and to add Section 25500.1 25741.5 to, the Public Resources Code, and to amend Sections 399.2.5, 399.11, 399.12, 399.17, and 454.5 399.11, 399.12, and 399.17 of, to amend and renumber Section 399.16 of, to amend, renumber, and add Section 399.13 of, to add Sections 399.18, 399.26, 399.30, 399.31, and 1005.1 renumber Sections 399.13 and 399.16 of, to add Sections 399.18, 399.30, and 399.31 to, to add Article 11 (commencing with Section 910) to Chapter 4 of Part 1 of

Division 1 of, to repeal Section 387 of, and to repeal and add ~~Sections 399.14 and 399.15~~ *Section 399.15* of, the Public Utilities Code, relating to energy, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 14, as amended, Simitian. Utilities: renewable energy resources.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. Existing law requires the PUC to require the state's 3 largest electrical corporations, Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison, to identify a separate electrical rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing PUC resolutions refer to the nonbypassable rate component as a "public goods charge." The public goods charge moneys are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources.

The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission). Existing law establishes the Renewable Resource Trust Fund as a fund that is continuously appropriated, with certain exceptions for administrative expenses, in the State Treasury and requires that certain moneys collected to support renewable energy resources through the public goods charge are deposited into the fund and authorizes the Energy Commission to expend the moneys pursuant to the Renewable Energy Resources Program. The program states the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year so that amount equals at least 20% of total retail sales of electricity in California per year by December 31, 2010.

This bill would revise the Renewable Energy Resources Program to state the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year, so that amount equals at least 33% of total retail sales of electricity in California per year by December 31, 2020. The bill would *revise certain terms*

*used in the program and revise certain eligibility criteria for an in-state renewable electricity a renewable electrical generation facility, as defined, pursuant to the program. The bill would require the Energy Commission, by May 31, 2010, to report to the Legislature whether out-of-state, run-of-river hydroelectric generating facilities should be considered renewable electric generating facilities, as defined.*

(2) Existing law expresses the intent of the Legislature, in establishing the California Renewables Portfolio Standard Program (RPS program), to increase the amount of electricity generated per year from eligible renewable energy resources, as defined, to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2010.

This bill would express the intent that the amount of electricity generated per year from eligible renewable energy resources ~~is~~ *be* increased to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, ~~2012~~ *2013*, and 33% by December 31, 2020.

(3) The Public Utilities Act imposes various duties and responsibilities on the PUC with respect to the purchase of electricity and requires the PUC to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation, as defined, pursuant to the RPS program. The RPS program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, but not including local publicly owned electric utilities, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year. The RPS program requires the PUC to implement annual procurement targets for each retail seller to increase its total procurement of electricity generated by eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales of electricity are procured from eligible renewable energy resources no later than December 31, 2010. Existing law requires the PUC to make a determination of the existing market cost for electricity, which PUC decisions call the market price referent, and to limit an electrical corporation's obligation to procure electricity from eligible renewable energy resources, that exceeds the market price referent, to an amount collected through the renewable energy public goods charge.

This bill would instead require the PUC to require that a retail seller procure the following percentages of electricity from eligible renewable energy resources by the following dates: (A) ~~20% by December 31, 2012;~~ (B) ~~23% by December 31, 2014;~~ (C) ~~26% by December 31, 2016;~~ (D) ~~30% by December 31, 2018;~~ and (E) *Until December 31, 2012, the same percentage as actually achieved by the retail seller during 2009;* (B) *20% by December 31, 2013;* (C) *25% by December 31, 2016;* and (D) *33% by December 31, 2020.* The bill would authorize the PUC to permit a retail seller to delay compliance with ~~(A), (B), (C), and (D)~~ (B) or (C) procurement levels when specified circumstances are present, but would not authorize the PUC to permit a retail seller to delay compliance with the ~~(E)~~ (D) procurement level. The bill would delete the existing market price referent provisions and instead require the PUC to establish a methodology to determine the market price of electricity for terms corresponding to the length of contracts with eligible renewable energy resources, in consideration of, and reflecting, certain matters. The bill would require the PUC to establish a limitation on the annual expenditures made above the market price, by an electrical corporation, in order to achieve the procurement levels established by the PUC. The bill would require the PUC to permit an electrical corporation to limit its procurement of electricity from eligible renewable energy resources to that quantity that can be procured at or below the market prices established by the PUC, up to the limitation. The bill would delete an existing requirement that the PUC adopt flexible rules for compliance for retail sellers ~~and would instead require the PUC to adopt rules permitting retail sellers to apply excess procurement in one year to subsequent years.~~

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the PUC is a crime.

Because the provisions of this bill are within the act and require action by the PUC to implement its requirements, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

(4) Under existing law, the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard for the utility that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.

This bill would repeal this provision and instead make certain of the requirements of the RPS program, as discussed below, applicable to local publicly owned electric utilities. By placing additional requirements upon local publicly owned electric utilities, the bill would impose a state-mandated local program.

(5) Existing law requires the Energy Commission to certify eligible renewable energy resources, to design and implement an accounting system to verify compliance with the RPS requirements by retail sellers, and to develop tracking, accounting, verification, and enforcement mechanisms for renewable energy credits, as defined.

This bill would require the Energy Commission to design and implement an accounting system to verify compliance with the RPS requirements by retail sellers and local publicly owned electric utilities. The bill would require the Energy Commission, among other things, to adopt regulations specifying procedures for enforcement of the RPS requirements that include a public process under which the Energy Commission is authorized to issue a notice of violation and correction with respect to a local publicly owned electric utility and for referral to the State Air Resources Board for penalties imposed pursuant to the California Global Warming Solutions Act of 2006. The bill would require that the RPS established for a local publicly owned electric utility require it to procure the following percentages of electricity from eligible renewable energy resources by the following dates: (A) ~~20% by December 31, 2012;~~ (B) ~~23% by December 31, 2014;~~ (C) ~~26% by December 31, 2016;~~ (D) ~~30% by December 31, 2018;~~ and (E) *Until December 31, 2012, the same percentage as actually achieved by the utility during 2009; (B) 20% by December 31, 2013; (C) 25% by December 31, 2016; and (D) 33% by December 31, 2020.* The bill would provide that the local publicly owned electric utility retains discretion with respect to certain matters in complying with the RPS, would require that certain notices be given by the utility when adopting and periodically revising its procurement plan, and would require the utility to report certain information relative to RPS compliance to the Energy Commission and its customers.

~~The bill would require the Energy Commission, by July 1, 2010, to update previously conducted studies relating to determining the effective load-carrying capacity of wind and solar energy resources on the electrical grid. The bill would require the Energy Commission to use those values in establishing the contribution of those resources toward meeting specified resource adequacy requirements.~~

~~(6) Existing law requires that an electrical corporation's proposed procurement plan include certain elements, including a showing that the electrical corporation will, in order to fulfill its unmet resource needs, until a 20% renewable resources portfolio is achieved, procure renewable energy resources with the goal of ensuring that at least an additional 1% per year of the electricity sold by the electrical corporation is generated from eligible renewable energy resources, provided sufficient funds are made available to cover the above-market costs for new renewable energy resources pursuant to certain provisions of the Renewable Energy Resources Program.~~

~~This bill would require that an electrical corporation's proposed procurement plan include a showing that the electrical corporation will, in order to fulfill its unmet resource needs, procure resources from eligible renewable energy resources in an amount sufficient to meet its procurement requirements pursuant to the RPS program.~~

~~(7)~~

~~(6) Existing law requires the PUC to prepare and submit to the Governor and the Legislature a written report annually before February 1 of each year on the costs of programs and activities conducted by an electrical corporation or gas corporation that have more than a specified number of customers in California.~~

The bill would require the PUC to prepare and submit to the policy and fiscal committees of the Legislature, annually before February 1 of each year, a report on (A) all electrical corporation revenue requirement increases associated with meeting the renewables portfolio standard, (B) all cost savings experienced, or costs avoided, by electrical corporations as a result of meeting the renewables portfolio standard, (C) all costs incurred by electrical corporations for incentives for distributed and renewable generation, (D) all cost savings experienced, or costs avoided, by electrical corporations as a result of incentives for distributed generation and renewable generation, (E) specified costs for which an electrical corporation is seeking recovery in rates that are pending determination or approval by the PUC, (F) the decision number of each PUC decision in the prior year authorizing an electrical corporation to recover costs incurred in rates, and (G) any changes in the prior year in load serviced by an electrical corporation.

~~(8) The Public Utilities Act prohibits any electrical corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the PUC a certificate that the present or future public convenience and~~

necessity require or will require that construction, termed a certificate of public convenience and necessity. Existing law requires the PUC, in acting upon an application by an electrical corporation for a certificate of public convenience and necessity, to deem new transmission facilities necessary to the provision of electric service if the PUC finds that new transmission facilities are necessary to facilitate achievement of the renewable power goals established under the RPS program. Existing law requires the PUC, upon finding that new transmission facilities are necessary to facilitate achievement of the renewable power goals established under the RPS, to take all feasible actions to ensure that the transmission rates established by the Federal Energy Regulatory Commission (FERC) are fully reflected in any retail rates established by the PUC.

This bill would require the PUC to issue a decision on an application for a certificate of public convenience and necessity within 18 months of the filing of a completed application under specified circumstances.

(9) The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent System Operator (ISO). Existing law requires the ISO to ensure efficient use and reliable operation of the transmission grid consistent with achieving planning and operating reserve criteria no less stringent than those established by the Western Electricity Coordinating Council and the American Electric Reliability Council. Pursuant to existing law, the ISO's tariffs are required to be approved by the FERC.

This bill would require the ISO and other California balancing authorities to work cooperatively to integrate and interconnect eligible renewable energy resources to the transmission grid by the most efficient means possible with the goal of minimizing the impact and cost of new transmission facilities needed to meet both reliability needs and the renewables portfolio standard procurement requirements, and to accomplish this in a manner that respects the ownership, business, and dispatch models for transmission facilities owned by electrical corporations, local publicly owned electric utilities, joint power agencies, and merchant transmission companies.

(10) Existing law establishes the Department of Fish and Game in the Natural Resources Agency, and generally charges the department with the administration and enforcement of the Fish and Game Code.

This bill would require the department to establish an internal division with the primary purpose of performing comprehensive planning and

~~environmental compliance services with priority given to projects involving the building of eligible renewable energy resources.~~

~~(11) Existing law grants the Energy Commission the exclusive authority to certify any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant thereto. Existing law prohibits the construction of any thermal powerplant or facilities appurtenant thereto or modification of any existing thermal powerplant and appurtenant facility without first obtaining certification from the Energy Commission. Each person proposing to construct a thermal powerplant or electric transmission line on a site is required to submit an application to the Energy Commission. The Energy Commission is required to prescribe the form and content of applications for facilities and to formally act to approve or disapprove applications, including specifying conditions under which approval and continuing operation of any facility is permitted.~~

~~This bill would require the Energy Commission to develop a concurrent application review process with the Department of Fish and Game for eligible renewable energy resources with the goal of reducing the time required to complete certification and compliance with the California Environmental Quality Act for eligible renewable energy resources that are within a competitive renewable energy zone.~~

~~(12)~~

~~(7) This bill would appropriate \$322,000 from the Public Utilities Commission Utilities Reimbursement Account to the PUC for additional staffing to identify, review, and approve transmission lines reasonably necessary or appropriate to facilitate achievement of the renewables portfolio standard.~~

~~(13)~~

~~(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for specified reasons.~~

~~Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.~~



*The people of the State of California do enact as follows:*

1     ~~SECTION 1.— Section 705 is added to the Fish and Game Code,~~  
2 ~~to read:~~

3     ~~705.—(a) For purposes of this section, “eligible renewable~~  
4 ~~energy resources” has the same meaning as in the California~~  
5 ~~Renewables Portfolio Standard Program (Article 16 (commencing~~  
6 ~~with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the~~  
7 ~~Public Utilities Code).~~

8     ~~(b) The department shall establish an internal division with the~~  
9 ~~primary purpose of performing comprehensive planning and~~  
10 ~~environmental compliance services with priority given to projects~~  
11 ~~involving the building of eligible renewable energy resources.~~

12     ~~(c) The internal division shall ensure the timely completion of~~  
13 ~~plans pursuant to the Natural Community Conservation Planning~~  
14 ~~Act (Chapter 10 (commencing with Section 2800) of Division 3).~~

15     ~~SEC. 2.— Section 25500.1 is added to the Public Resources Code,~~  
16 ~~to read:~~

17     ~~25500.1.— Nothing in this chapter exempts an eligible renewable~~  
18 ~~energy resource, as defined in Article 16 (commencing with Section~~  
19 ~~399.11) of the Public Utilities Code, from the Fish and Game Code,~~  
20 ~~including Division 3 (commencing with Section 2000) of the Fish~~  
21 ~~and Game Code.~~

22     ~~SEC. 3.— Section 25740 of the Public Resources Code is~~  
23 ~~amended to read:~~

24     ~~25740.— The Legislature finds and declares that the State Air~~  
25 ~~Resources Board has identified a statewide 33 percent renewables~~  
26 ~~portfolio standard as a key measure to comply with the~~  
27 ~~requirements of the California Global Warming Solutions Act of~~  
28 ~~2006. It is the intent of the Legislature in establishing this program,~~  
29 ~~to increase the amount of electricity generated from eligible~~  
30 ~~renewable energy resources per year, so that it equals at least 33~~  
31 ~~percent of total retail sales of electricity in California per year by~~  
32 ~~December 31, 2020.~~

33     ~~SEC. 4.— Section 25740.5 of the Public Resources Code is~~  
34 ~~amended to read:~~

35     ~~25740.5.—(a) The commission shall optimize public investment~~  
36 ~~and ensure that the most cost-effective and efficient investments~~  
37 ~~in renewable energy resources are vigorously pursued.~~

1     ~~(b) The commission's long-term goal shall be a fully competitive~~  
2     ~~and self-sustaining supply of electricity generated from renewable~~  
3     ~~sources.~~

4     ~~(c) The program objective shall be to increase, in the near term,~~  
5     ~~the quantity of California's electricity generated by renewable~~  
6     ~~electrical generation facilities located in this state, while protecting~~  
7     ~~system reliability, fostering resource diversity, and obtaining the~~  
8     ~~greatest environmental benefits for California residents.~~

9     ~~(d) An additional objective of the program shall be to identify~~  
10    ~~and support emerging renewable technologies in distributed~~  
11    ~~generation applications that have the greatest near-term commercial~~  
12    ~~promise and that merit targeted assistance.~~

13    ~~(e) The Legislature recommends allocations among all of the~~  
14    ~~following:~~

15    ~~(1) Rebates, buydowns, or equivalent incentives for emerging~~  
16    ~~renewable technologies.~~

17    ~~(2) Customer education.~~

18    ~~(3) Production incentives for reducing fuel costs, that are~~  
19    ~~confirmed to the satisfaction of the commission, at solid fuel~~  
20    ~~biomass energy facilities in order to provide demonstrable~~  
21    ~~environmental and public benefits, including improved air quality.~~

22    ~~(4) Solar thermal generating resources that enhance the~~  
23    ~~environmental value or reliability of the electrical system and that~~  
24    ~~require financial assistance to remain economically viable, as~~  
25    ~~determined by the commission. The commission may require~~  
26    ~~financial disclosure from applicants for purposes of this paragraph.~~

27    ~~(5) Specified fuel cell technologies, if the commission makes~~  
28    ~~all of the following findings:~~

29    ~~(A) The specified technologies have similar or better air~~  
30    ~~pollutant characteristics than renewable technologies in the report~~  
31    ~~made pursuant to Section 25748.~~

32    ~~(B) The specified technologies require financial assistance to~~  
33    ~~become commercially viable by reference to wholesale generation~~  
34    ~~prices.~~

35    ~~(C) The specified technologies could contribute significantly~~  
36    ~~to the infrastructure development or other innovation required to~~  
37    ~~meet the long-term objective of a self-sustaining, competitive~~  
38    ~~supply of electricity generated from renewable sources.~~

39    ~~(6) Existing wind-generating resources, if the commission finds~~  
40    ~~that the existing wind-generating resources are a cost-effective~~

1 source of reliable energy and environmental benefits compared  
2 with other renewable electrical generation facilities located in this  
3 state, and that the existing wind-generating resources require  
4 financial assistance to remain economically viable. The commission  
5 may require financial disclosure from applicants for the purposes  
6 of this paragraph.

7 (f) Notwithstanding any other provision of law, moneys  
8 collected for renewable energy pursuant to Article 15 (commencing  
9 with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the  
10 Public Utilities Code shall be transferred to the Renewable  
11 Resource Trust Fund. Moneys collected between January 1, 2007,  
12 and January 1, 2012, shall be used for the purposes specified in  
13 this chapter.

14 ~~SEC. 5.~~

15 *SECTION 1.* Section 25741 of the Public Resources Code is  
16 amended to read:

17 25741. As used in this chapter, the following terms have the  
18 following meaning:

19 (a) “Delivered” and “delivery,” have the same meaning as  
20 defined in Section 399.12 of the Public Utilities Code.

21 (b) “Procurement entity” means any person or corporation that  
22 enters into an agreement with a retail seller to procure eligible  
23 renewable energy resources pursuant to subdivision (f) of Section  
24 ~~399.14~~ (g) of Section 399.13 of the Public Utilities Code.

25 (c) “Renewable electrical generation facility” means a facility  
26 that meets all of the following criteria:

27 (1) The facility uses biomass, solar thermal, photovoltaic, wind,  
28 geothermal, fuel cells using renewable fuels, small hydroelectric  
29 generation of 30 megawatts or less, digester gas, municipal solid  
30 waste conversion, landfill gas, ocean wave, ocean thermal, or tidal  
31 current, and any additions or enhancements to the facility using  
32 that technology.

33 (2) The facility satisfies one of the following requirements:

34 (A) The facility is located in the state or near the border of the  
35 state with the first point of connection to the transmission network  
36 of an ~~area balancing authority~~ *balancing authority area* primarily  
37 located within the state.

38 (B) The facility has its first point of interconnection to the  
39 transmission network outside the state and satisfies all of the  
40 following requirements:

1 (i) It is connected to the transmission network within the  
2 Western Electricity Coordinating Council (WECC) service  
3 territory.

4 (ii) It commences initial commercial operation after January 1,  
5 2010.

6 (iii) It will not cause or contribute to any violation of a California  
7 environmental quality standard or requirement.

8 (iv) It participates in the accounting system to verify compliance  
9 with the renewables portfolio standard once established by the  
10 commission pursuant to subdivision (b) of Section 399.25 of the  
11 Public Utilities Code.

12 (C) The facility meets the requirements of clauses (i), (iii), ~~(iv),~~  
13 ~~and (v)~~ and (iv) of subparagraph (B), but does not meet the  
14 requirements of clause (ii) of subparagraph (B) because it  
15 commenced initial operation prior to January 1, 2010, if the facility  
16 satisfies either of the following requirements:

17 (i) The electricity is from incremental generation resulting from  
18 expansion or repowering of the facility.

19 (ii) Electricity generated by the facility was procured by a retail  
20 seller or local publicly owned electric utility as of May 31, 2009.

21 (3) Any existing landfill gas facility approved by a publicly  
22 owned electric utility prior to September 16, 2009, as a renewable  
23 electric generation facility shall continue to qualify as a renewable  
24 electric generation facility.

25 (4) If the facility is outside the ~~state~~ *United States*, it is  
26 developed and operated in a manner that is as protective of the  
27 environment as a similar facility located in the state.

28 (d) “Municipal solid waste conversion,” as used in subdivision  
29 (c), means a technology that uses a noncombustion thermal process  
30 to convert solid waste to a clean-burning fuel for the purpose of  
31 generating electricity, and that meets all of the following criteria:

32 (A) The technology does not use air or oxygen in the conversion  
33 process, except ambient air to maintain temperature control.

34 (B) The technology produces no discharges of air contaminants  
35 or emissions, including greenhouse gases as defined in Section  
36 38505 of the Health and Safety Code.

37 (C) The technology produces no discharges to surface or  
38 groundwaters of the state.

39 (D) The technology produces no hazardous wastes.

1 (E) To the maximum extent feasible, the technology removes  
2 all recyclable materials and marketable green waste compostable  
3 materials from the solid waste stream prior to the conversion  
4 process and the owner or operator of the facility certifies that those  
5 materials will be recycled or composted.

6 (F) The facility at which the technology is used is in compliance  
7 with all applicable laws, regulations, and ordinances.

8 (G) The technology meets any other conditions established by  
9 the commission.

10 (H) The facility certifies that any local agency sending solid  
11 waste to the facility diverted at least 30 percent of all solid waste  
12 it collects through solid waste reduction, recycling, and  
13 composting. For purposes of this paragraph, “local agency” means  
14 any city, county, or special district, or subdivision thereof, which  
15 is authorized to provide solid waste handling services.

16 (e) “Renewable energy public goods charge” means that portion  
17 of the nonbypassable system benefits charge required to be  
18 collected to fund renewable energy pursuant to the Reliable Electric  
19 Service Investments Act (Article 15 (commencing with Section  
20 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities  
21 Code).

22 (f) “Report” means the report entitled “Investing in Renewable  
23 Electricity Generation in California” (June 2001, Publication  
24 Number P500-00-022) submitted to the Governor and the  
25 Legislature by the commission.

26 (g) “Retail seller” means a “retail seller” as defined in Section  
27 399.12 of the Public Utilities Code.

28 *SEC. 2. Section 25741.5 is added to the Public Resources Code,*  
29 *to read:*

30 *25741.5. By May 31, 2010, the commission shall report to the*  
31 *Legislature whether out-of-state, run-of-river hydroelectric*  
32 *generating facilities that are no larger than 50 megawatts should*  
33 *be considered renewable electrical generating facilities. In making*  
34 *its report, the commission shall consider the emissions of carbon*  
35 *dioxide, other air pollutants, impacts on water quality, recreation,*  
36 *and fisheries, and other environmental impacts of these generating*  
37 *resources as compared to those of existing electric generating*  
38 *facilities.*

39 ~~SEC. 6. Section 25742 of the Public Resources Code is~~  
40 ~~amended to read:~~

~~25742. (a) Twenty percent of the funds collected pursuant to the renewable energy public goods charge shall be used for programs that are designed to achieve fully competitive and self-sustaining existing renewable electrical generation facilities located in this state, and to secure for the state the environmental, economic, and reliability benefits that continued operation of those facilities will provide during the 2007–2011 investment cycle. Eligibility for production incentives under this section shall be limited to those technologies found eligible for funds by the commission pursuant to paragraphs (3), (4), and (6) of subdivision (e) of Section 25740.5.~~

~~(b) Any funds used to support renewable electrical generation facilities located in this state pursuant to this section shall be expended in accordance with the provisions of this chapter.~~

~~(c) Facilities that are eligible to receive funding pursuant to this section shall be registered in accordance with criteria developed by the commission and those facilities shall not receive payments for any electricity produced that has any of the following characteristics:~~

~~(1) Is sold at monthly average rates equal to, or greater than, the applicable target price, as determined by the commission.~~

~~(2) Is used onsite.~~

~~(d) (1) Existing facilities located in this state generating electricity from biomass energy shall be eligible for funding and otherwise considered a renewable electrical generation facility only if they report to the commission the types and quantities of biomass fuels used.~~

~~(2) The commission shall report the types and quantities of biomass fuels used by each facility to the Legislature in the reports prepared pursuant to Section 25748.~~

~~(e) Each existing facility seeking an award pursuant to this section shall be evaluated by the commission to determine the amount of the funds being sought, the cumulative amount of funds the facility has received previously from the commission and other state sources, the value of any past and current federal or state tax credits, the facility's contract price for energy and capacity, the prices received by similar facilities, the market value of the facility, and the likelihood that the award will make the facility competitive and self-sustaining within the 2007–2011 investment cycle. The commission shall use this evaluation to determine the value of an~~

1 award to the public relative to other renewable energy investment  
2 alternatives. The commission shall compile its findings and report  
3 them to the Legislature in the reports prepared pursuant to Section  
4 25748.

5 ~~SEC. 7. Section 25746 of the Public Resources Code is~~  
6 ~~amended to read:~~

7 ~~25746. (a) One percent of the money collected pursuant to the~~  
8 ~~renewable energy public goods charge shall be used in accordance~~  
9 ~~with this chapter to promote renewable energy and disseminate~~  
10 ~~information on renewable energy technologies, including emerging~~  
11 ~~renewable technologies, and to help develop a consumer market~~  
12 ~~for renewable energy and for small-scale emerging renewable~~  
13 ~~energy technologies.~~

14 ~~(b) If the commission provides funding for a regional accounting~~  
15 ~~system to verify compliance with the renewable portfolio standard~~  
16 ~~by retail sellers, pursuant to subdivision (b) of Section 399.25 of~~  
17 ~~the Public Utilities Code, the commission shall recover all costs~~  
18 ~~from user fees.~~

19 ~~SEC. 8. Section 25747 of the Public Resources Code is~~  
20 ~~amended to read:~~

21 ~~25747. (a) The commission shall adopt guidelines governing~~  
22 ~~the funding programs authorized under this chapter, at a publicly~~  
23 ~~noticed meeting offering all interested parties an opportunity to~~  
24 ~~comment. Substantive changes to the guidelines may not be~~  
25 ~~adopted without at least 10 days' written notice to the public. The~~  
26 ~~public notice of meetings required by this subdivision may not be~~  
27 ~~less than 30 days. Notwithstanding any other provision of law, any~~  
28 ~~guidelines adopted pursuant to this chapter or Section 399.25 of~~  
29 ~~the Public Utilities Code, shall be exempt from the requirements~~  
30 ~~of Chapter 3.5 (commencing with Section 11340) of Part 1 of~~  
31 ~~Division 3 of Title 2 of the Government Code. The Legislature~~  
32 ~~declares that the changes made to this subdivision by the act~~  
33 ~~amending this section during the 2002 portion of the 2001-02~~  
34 ~~Regular Session are declaratory of, and not a change in existing~~  
35 ~~law.~~

36 ~~(b) Funds to further the purposes of this chapter may be~~  
37 ~~committed for multiple years.~~

38 ~~(c) Awards made pursuant to this chapter are grants, subject to~~  
39 ~~appeal to the commission upon a showing that factors other than~~  
40 ~~those described in the guidelines adopted by the commission were~~

1 applied in making the awards and payments. Any actions taken  
2 by an applicant to apply for, or become or remain eligible and  
3 registered to receive, payments or awards, including satisfying  
4 conditions specified by the commission, shall not constitute the  
5 rendering of goods, services, or a direct benefit to the commission.

6 (d) ~~An award made pursuant to this chapter, the amount of the~~  
7 ~~award, and the terms and conditions of the grant are public~~  
8 ~~information.~~

9 SEC. 9. ~~Section 25751 of the Public Resources Code is~~  
10 ~~amended to read:~~

11 25751. (a) ~~The Renewable Resource Trust Fund is hereby~~  
12 ~~created in the State Treasury.~~

13 (b) ~~The following accounts are hereby established within the~~  
14 ~~Renewable Resource Trust Fund:~~

15 (1) ~~Existing Renewable Resources Account.~~

16 (2) ~~Emerging Renewable Resources Account.~~

17 (3) ~~Renewable Resources Consumer Education Account.~~

18 (e) ~~The money in the fund may be expended, only upon~~  
19 ~~appropriation by the Legislature in the annual Budget Act, for the~~  
20 ~~following purposes:~~

21 (1) ~~The administration of this article by the state.~~

22 (2) ~~The state's expenditures associated with the accounting~~  
23 ~~system established by the commission pursuant to subdivision (b)~~  
24 ~~of Section 399.25 of the Public Utilities Code.~~

25 (d) ~~That portion of revenues collected by electrical corporations~~  
26 ~~for the benefit of in-state operation and development of existing~~  
27 ~~and new and emerging renewable resource technologies, pursuant~~  
28 ~~to Section 399.8 of the Public Utilities Code, shall be transmitted~~  
29 ~~to the commission at least quarterly for deposit in the Renewable~~  
30 ~~Resource Trust Fund pursuant to Section 25740.5. After setting~~  
31 ~~aside in the fund money that may be needed for expenditures~~  
32 ~~authorized by the annual Budget Act in accordance with~~  
33 ~~subdivision (e), the Treasurer shall immediately deposit money~~  
34 ~~received pursuant to this section into the accounts created pursuant~~  
35 ~~to subdivision (b) in proportions designated by the commission~~  
36 ~~for the current calendar year. Notwithstanding Section 13340 of~~  
37 ~~the Government Code, the money in the fund and the accounts~~  
38 ~~within the fund are hereby continuously appropriated to the~~  
39 ~~commission without regard to fiscal year for the purposes~~  
40 ~~enumerated in this chapter.~~



1     ~~(e) Upon notification by the commission, the Controller shall~~  
2 ~~pay all awards of the money in the accounts created pursuant to~~  
3 ~~subdivision (b) for purposes enumerated in this chapter. The~~  
4 ~~eligibility of each award shall be determined solely by the~~  
5 ~~commission based on the procedures it adopts under this chapter.~~  
6 ~~Based on the eligibility of each award, the commission shall also~~  
7 ~~establish the need for a multiyear commitment to any particular~~  
8 ~~award and so advise the Department of Finance. Eligible awards~~  
9 ~~submitted by the commission to the Controller shall be~~  
10 ~~accompanied by information specifying the account from which~~  
11 ~~payment should be made and the amount of each payment; a~~  
12 ~~summary description of how payment of the award furthers the~~  
13 ~~purposes enumerated in this chapter; and an accounting of future~~  
14 ~~costs associated with any award or group of awards known to the~~  
15 ~~commission to represent a portion of a multiyear funding~~  
16 ~~commitment.~~

17     ~~(f) The commission may transfer funds between accounts for~~  
18 ~~cashflow purposes, provided that the balance due each account is~~  
19 ~~restored and the transfer does not adversely affect any of the~~  
20 ~~accounts.~~

21     ~~(g) The Department of Finance shall conduct an independent~~  
22 ~~audit of the Renewable Resource Trust Fund and its related~~  
23 ~~accounts annually, and provide an audit report to the Legislature~~  
24 ~~not later than March 1 of each year for which this article is~~  
25 ~~operative. The Department of Finance's report shall include~~  
26 ~~information regarding revenues, payment of awards, reserves held~~  
27 ~~for future commitments, unencumbered cash balances, and other~~  
28 ~~matters that the Director of Finance determines may be of~~  
29 ~~importance to the Legislature.~~

30     ~~SEC. 10.~~

31     ~~SEC. 3.~~ Section 387 of the Public Utilities Code is repealed.

32     ~~SEC. 11.~~ Section 399.2.5 of the Public Utilities Code is  
33 amended to read:

34     399.2.5. (a) Notwithstanding Sections 1001 to 1013, inclusive,  
35 an application of an electrical corporation for a certificate  
36 authorizing the construction of new transmission facilities is  
37 necessary to the provision of electric service for purposes of  
38 Section 1003 if the commission finds that the new facility is  
39 reasonably necessary or appropriate to facilitate achievement of

~~the renewables portfolio standard established in Article 16 (commencing with Section 399.11).~~

~~(b) With respect to a transmission facility described in subdivision (a), the commission shall take all feasible actions to ensure that the transmission rates established by the Federal Energy Regulatory Commission are fully reflected in any retail rates established by the commission. These actions shall include all of the following:~~

~~(1) Making findings, where supported by an evidentiary record, that those transmission facilities provide benefit to the transmission network and are reasonably necessary or appropriate to facilitate the achievement of the renewables portfolio standard established in Article 16 (commencing with Section 399.11).~~

~~(2) Directing the utility to which the generator will be interconnected, where the direction is not preempted by federal law, to seek the recovery through general transmission rates of the costs associated with the transmission facilities.~~

~~(3) Asserting the positions described in paragraphs (1) and (2) to the Federal Energy Regulatory Commission in appropriate proceedings.~~

~~(4) Providing assurance, prior to a determination of rate recovery by the Federal Energy Regulatory Commission (FERC) of those costs that are subject to FERC jurisdiction, of recovery in retail rates of any increase in transmission costs incurred by an electrical corporation resulting from the construction of the transmission facilities to the extent these costs are not subsequently approved for recovery in transmission rates by the FERC, after the commission determines that the costs were prudently incurred in accordance with subdivision (a) of Section 454.~~

~~(5) Allowing recovery in retail rates of any increase in transmission costs if the FERC does not approve recovery of those costs in the rates that are subject to FERC jurisdiction after the commission determines that the costs were prudently incurred in accordance with subdivision (a) of Section 454.~~

~~(e) (1) The commission shall approve an advice letter seeking assurance of cost recovery pursuant to paragraph (4) of subdivision (b), if either of the following are true:~~

~~(A) The new transmission line or facility is an upgrade of an existing transmission line or facility, or is a new facility within either an existing transmission right-of-way or a transmission~~

1 corridor zone that has been designated by the Energy Commission  
2 pursuant to Section 25331 of the Public Resources Code, and is  
3 consistent with the priority transmission projects in the conceptual  
4 transmission plan in the final Phase 3 report produced by the public  
5 collaborative stakeholder planning process known as the  
6 Renewable Energy Transmission Initiative (RETI).

7 (B) Not less than 50 percent of the planned use for the capacity  
8 of the new transmission line or facility is for interconnecting  
9 eligible renewable energy resources, as determined by the  
10 Independent System Operator or an electrical corporation, and all  
11 interconnection requests for that transmission line or facility are  
12 for generation facilities that comply with the greenhouse gases  
13 emission performance standard established pursuant to Chapter 3  
14 (commencing with Section 8340) of Division 4.1.

15 (2) Approval of an advice letter pursuant to paragraph (1) is not  
16 binding upon the commission in making its determination whether  
17 or not to approve an application for a certificate of public  
18 convenience and necessity pursuant to Chapter 5 (commencing  
19 with Section 1001).

20 ~~SEC. 12.~~

21 *SEC. 4.* Section 399.11 of the Public Utilities Code is amended  
22 to read:

23 399.11. The Legislature finds and declares all of the following:

24 (a) In order to attain a target of generating 20 percent of total  
25 retail sales of electricity in California from eligible renewable  
26 energy resources by December 31, ~~2012~~ 2013, and 33 percent by  
27 December 31, 2020, and for the purposes of increasing the  
28 diversity, reliability, public health, and environmental benefits of  
29 the energy mix, reducing emissions of greenhouse gases, and  
30 promoting economic development it is the intent of the Legislature  
31 that the commission and the Energy Commission implement the  
32 California Renewables Portfolio Standard Program described in  
33 this article.

34 (b) Increasing California's reliance on eligible renewable energy  
35 resources may promote stable electricity prices, protect public  
36 health, improve environmental quality, stimulate sustainable  
37 economic development, create new employment opportunities,  
38 and reduce reliance on imported fuels.

39 (c) The development of eligible renewable energy resources  
40 and the delivery of the electricity generated by those resources to

1 customers in California may ameliorate air quality problems  
2 throughout the state and improve public health by reducing the  
3 burning of fossil fuels and the associated environmental impacts  
4 and by reducing in-state fossil fuel consumption.

5 (d) The California Renewables Portfolio Standard Program is  
6 intended to complement the Renewable Energy Resources Program  
7 administered by the Energy Commission and established pursuant  
8 to Chapter 8.6 (commencing with Section 25740) of Division 15  
9 of the Public Resources Code.

10 (e) New and modified electric transmission facilities will be  
11 necessary to facilitate the state achieving its renewables portfolio  
12 standard targets.

13 (f) *(1) Delivering genuine renewable electricity to California*  
14 *end-use customers is necessary to improve California's air quality*  
15 *and public health, and California end-use customers may be paying*  
16 *higher rates to achieve the procurement requirements of this*  
17 *article. This delivered electricity may be generated anywhere in*  
18 *the interconnected grid that includes many states, and areas of*  
19 *both Canada and Mexico.*

20 *(2) The definition of "delivered" and "delivery" requires*  
21 *generating resources located outside of California, but able to*  
22 *deliver that electricity to California end-use customers, to be*  
23 *treated identically to generating resources located within the state,*  
24 *without discrimination.*

25 *(3) California electrical corporations have already executed,*  
26 *and the commission has approved, power purchase agreements*  
27 *with eligible renewable energy resources located outside of*  
28 *California that will deliver renewable electricity to California*  
29 *end-use customers, and there are nearly 10,000 megawatts of*  
30 *additional proposed renewable energy resources located outside*  
31 *of California that are awaiting interconnection approval from the*  
32 *Independent System Operator. All of the delivered resources should*  
33 *count as eligible renewable energy resources under the renewables*  
34 *portfolio standard procurement requirements.*

35 ~~SEC. 13.~~

36 SEC. 5. Section 399.12 of the Public Utilities Code is amended  
37 to read:

38 399.12. For purposes of this article, the following terms have  
39 the following meanings:

1 (a) “Conduit hydroelectric facility” means a facility for the  
2 generation of electricity that uses only the hydroelectric potential  
3 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other  
4 manmade conduit that is operated to distribute water for a  
5 beneficial use.

6 (b) (1) “Delivered” and “delivery,” with respect to electricity,  
7 means that the electricity is used to serve end-use retail customers  
8 or energy storage facilities located within the state, and meets  
9 either of the following conditions:

10 (A) The electricity is generated at a location within the state.

11 (B) The electricity is generated at a location outside the state  
12 and scheduled for consumption by California end-use retail  
13 customers or energy storage facilities located within the state.  
14 Compliance with this requirement is demonstrated by one of the  
15 following means:

16 (i) Showing that the generator’s first point of interconnection  
17 is with facilities ~~controlled by a balancing authority of a~~  
18 *Transmission Service Provider, as that term is defined by North*  
19 *American Electric Reliability Corporation* primarily located in  
20 this state.

21 (ii) Showing that the hourly metered output of the generator  
22 matches the ~~hourly~~ import schedules of electricity flow from the  
23 generator, through the balancing authority area in which the  
24 generator is located, through any intermediate balancing authorities,  
25 to the balancing authority area of the end-use retail customers or  
26 energy storage facility located in this state.

27 (2) Notwithstanding clause (ii) of subparagraph (B) of paragraph  
28 (1), electricity is not delivered to the extent that either of the  
29 following occurs:

30 (A) The physical delivery of electricity is scheduled from a  
31 source other than a renewable electrical generation facility, as  
32 defined in Section 27541 of the Public Resources Code.

33 (B) The electricity output is scheduled for delivery to customers  
34 in a different hour from the time of generation by the renewable  
35 electrical generation facility.

36 (3) Consistent with subparagraph (A) of paragraph (2), the  
37 physical delivery of electricity from a renewable electrical  
38 generation facility may be accompanied by electricity provided  
39 by another source for purposes of facilitating scheduling. For  
40 purposes of this article, only the portion of electricity provided

1 directly from the renewable electrical generation facility shall  
2 count toward meeting the renewables portfolio standard  
3 procurement requirements of this article.

4 (4) For purposes of determining compliance by an intermittent  
5 resource located outside California with the delivery requirements  
6 of this subdivision, any positive imbalance energy provided under  
7 applicable tariffs by the balancing authority in which the facility  
8 is located shall, in an amount not exceeding any negative imbalance  
9 energy provided by the intermittent resource, be included in the  
10 hourly metered output and considered generated by the eligible  
11 renewable energy resource.

12 (c) “Eligible renewable energy resource” means an electrical  
13 generating facility that meets the definition of a “renewable  
14 electrical generation facility” in Section 25741 of the Public  
15 Resources Code subject to the following:

16 (1) (A) An existing small hydroelectric generation facility of  
17 30 megawatts or less shall be eligible only if a retail seller or local  
18 publicly owned electric utility owned or procured the electricity  
19 from the facility as of December 31, 2005. A small hydroelectric  
20 generation unit with a nameplate capacity not exceeding 40  
21 megawatts that is operated as part of a water supply or conveyance  
22 system serving the jurisdiction of a local publicly owned electric  
23 utility is an eligible renewable energy resource if the local publicly  
24 owned electric utility owned or procured the electricity from the  
25 facility as of December 31, 2005. A new hydroelectric facility is  
26 not an eligible renewable energy resource if it will cause an adverse  
27 impact on instream beneficial uses or cause a change in the volume  
28 or timing of streamflow.

29 (B) Notwithstanding subparagraph (A), a conduit hydroelectric  
30 facility of 30 megawatts or less that commenced operation before  
31 January 1, 2006, is an eligible renewable energy resource. A  
32 conduit hydroelectric facility of 30 megawatts or less that  
33 commences operation after December 31, 2005, is an eligible  
34 renewable energy resource so long as it does not cause an adverse  
35 impact on instream beneficial uses or cause a change in the volume  
36 or timing of streamflow.

37 (2) A facility engaged in the combustion of municipal solid  
38 waste shall not be considered an eligible renewable resource unless  
39 it is located in Stanislaus County and was operational prior to  
40 September 26, 1996.

1 (d) “Procure” means to acquire ~~by lawful means~~ *through*  
2 *ownership or contract*. For purposes of meeting the renewables  
3 portfolio standard procurement requirements, a retail seller or local  
4 publicly owned electric utility may procure either delivered  
5 electricity generated by an eligible renewable energy resource or  
6 renewable energy credits associated with electricity generated, but  
7 not necessarily delivered by, an eligible renewable energy resource.  
8 Nothing in this article is intended to imply that the purchase of  
9 electricity from third parties in a wholesale transaction is the  
10 preferred method of fulfilling a retail seller’s obligation to comply  
11 with this article or the obligation of a local publicly owned electric  
12 utility to meet its renewables portfolio standard implemented  
13 pursuant to Section 399.30.

14 (e) (1) “Renewable energy credit” means a certificate of proof  
15 associated with the generation of electricity from an eligible  
16 renewable energy resource, issued through the accounting system  
17 established by the Energy Commission pursuant to Section 399.25,  
18 that one unit of electricity was generated by an eligible renewable  
19 energy resource.

20 (2) “Renewable energy credit” includes all renewable and  
21 environmental attributes associated with the production of  
22 electricity from the eligible renewable energy resource, except for  
23 an emissions reduction credit issued pursuant to Section 40709 of  
24 the Health and Safety Code and any credits or payments associated  
25 with the reduction of solid waste and treatment benefits created  
26 by the utilization of biomass or biogas fuels.

27 (3) (A) No electricity generated by an eligible renewable energy  
28 resource attributable to the use of nonrenewable fuels, beyond a  
29 de minimis quantity, as determined by the Energy Commission  
30 for each renewable energy technology, shall result in the creation  
31 of a renewable energy credit.

32 (B) No electricity generated by a small hydroelectric generation  
33 facility shall result in the creation of a renewable energy credit  
34 unless the facility meets the requirements of subparagraph (A) of  
35 paragraph (1) of subdivision (c).

36 (C) No electricity generated by a conduit hydroelectric  
37 generation facility shall result in the creation of a renewable energy  
38 credit unless the facility meets the requirements of subparagraph  
39 (B) of paragraph (1) of subdivision (c).

(D) No electricity generated by a facility engaged in the combustion of municipal solid waste shall result in the creation of a renewable energy credit unless the facility meets the requirements of paragraph (2) of subdivision (c).

(f) “Renewable energy public goods charge” means that portion of the nonbypassable system benefits charge required to be collected to fund renewable energy pursuant to the Reliable Electric Service Investments Act (Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1, for an electrical corporation, and pursuant to Section 385 for a local publicly owned electric utility.

(g) “Renewables portfolio standard” means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller or a local publicly owned electric utility is required to procure pursuant to this article.

(h) “Retail seller” means an entity engaged in the retail sale of electricity to end-use customers located within the state, including any of the following:

(1) An electrical corporation, as defined in Section 218.

(2) A community choice aggregator. The commission shall institute a rulemaking to determine the manner in which a community choice aggregator will participate in the renewables portfolio standard program subject to the same terms and conditions applicable to an electrical corporation.

(3) An electric service provider, as defined in Section 218.3, for all sales of electricity to customers beginning January 1, 2006. The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard program. The electric service provider shall be subject to the same terms and conditions applicable to an electrical corporation pursuant to this article. Nothing in this paragraph shall impair a contract entered into between an electric service provider and a retail customer prior to the suspension of direct access by the commission pursuant to Section 80110 of the Water Code.

(4) “Retail seller” does not include any of the following:

(A) A corporation or person employing cogeneration technology or producing electricity consistent with subdivision (b) of Section 218.



1 (B) The Department of Water Resources acting in its capacity  
2 pursuant to Division 27 (commencing with Section 80000) of the  
3 Water Code.

4 (C) A local publicly owned electric utility.

5 ~~SEC. 14.~~

6 *SEC. 6.* Section 399.13 of the Public Utilities Code is amended  
7 and renumbered to read:

8 399.25. The Energy Commission shall do all of the following:

9 (a) Certify eligible renewable energy resources that it determines  
10 meet the criteria described in subdivision (c) of Section 399.12.

11 (b) Design and implement an accounting system to verify  
12 compliance with the renewables portfolio standard by retail sellers  
13 and local publicly owned electric utilities, to ensure that electricity  
14 generated by an eligible renewable energy resource is counted  
15 only once for the purpose of meeting the renewables portfolio  
16 standard of this state or any other state, to certify renewable energy  
17 credits produced by eligible renewable energy resources, and to  
18 verify retail product claims in this state or any other state. In  
19 establishing the guidelines governing this accounting system, the  
20 Energy Commission shall collect data from electricity market  
21 participants that it deems necessary to verify compliance of retail  
22 sellers and local publicly owned electric utilities, in accordance  
23 with the requirements of this article and the California Public  
24 Records Act (Chapter 3.5 (commencing with Section 6250) of  
25 Division 7 of Title 1 of the Government Code). In seeking data  
26 from electrical corporations, the Energy Commission shall request  
27 data from the commission. The commission shall collect data from  
28 electrical corporations and remit the data to the Energy  
29 Commission within 90 days of the request.

30 (c) Establish a system for tracking and verifying renewable  
31 energy credits that, through the use of independently audited data,  
32 verifies the generation and delivery of electricity associated with  
33 each renewable energy credit and protects against multiple counting  
34 of the same renewable energy credit. The Energy Commission  
35 shall consult with other western states and with the Western  
36 Electricity Coordinating Council in the development of this system.

37 (d) Certify, for purposes of compliance with the renewables  
38 portfolio standard requirements by a retail seller, the eligibility of  
39 renewable energy credits associated with deliveries of electricity  
40 by an eligible renewable energy resource to a local publicly owned

1 electric utility, if the Energy Commission determines that all of  
2 the conditions of Section 399.31 have been met.

3 ~~SEC. 15. Section 399.13 is added to the Public Utilities Code,~~  
4 ~~to read:~~

5 ~~399.13. (a) (1) The commission shall direct each electrical~~  
6 ~~corporation to prepare a renewable energy procurement plan that~~  
7 ~~includes the matter in paragraph (3), to satisfy its obligations under~~  
8 ~~the renewables portfolio standard. To the extent feasible, this~~  
9 ~~procurement plan shall be proposed, reviewed, and adopted by the~~  
10 ~~commission as part of, and pursuant to, a general procurement~~  
11 ~~plan process. The commission shall require each electrical~~  
12 ~~corporation to review and update its renewable energy procurement~~  
13 ~~plan as it determines to be necessary.~~

14 ~~(2) The commission shall adopt, by rulemaking, all of the~~  
15 ~~following:~~

16 ~~(A) A process that provides criteria for the rank ordering and~~  
17 ~~selection of least-cost and best-fit eligible renewable energy~~  
18 ~~resources to comply with the annual California Renewables~~  
19 ~~Portfolio Standard Program obligations on a total cost basis. This~~  
20 ~~process shall take into account all of the following:~~

21 ~~(i) Estimates of indirect costs associated with needed~~  
22 ~~transmission investments and ongoing electrical corporation~~  
23 ~~expenses resulting from integrating and operating eligible~~  
24 ~~renewable energy resources.~~

25 ~~(ii) The cost impact of procuring the eligible renewable energy~~  
26 ~~resources on the electrical corporation's electricity portfolio.~~

27 ~~(iii) The viability of the project to construct and reliably operate~~  
28 ~~the eligible renewable energy resource, including the developer's~~  
29 ~~experience, the feasibility of the technology used to generate~~  
30 ~~electricity, and the risk that the facility will not be built, or that~~  
31 ~~construction will be delayed, with the result that electricity will~~  
32 ~~not be delivered as required by the contract.~~

33 ~~(B) Rules permitting retail sellers to apply excess procurement~~  
34 ~~in one year to subsequent years.~~

35 ~~(C) Standard terms and conditions to be used by all electrical~~  
36 ~~corporations in contracting for eligible renewable energy resources,~~  
37 ~~including performance requirements for renewable generators. A~~  
38 ~~contract for the purchase of electricity generated by an eligible~~  
39 ~~renewable energy resource shall, at a minimum, include the~~  
40 ~~renewable energy credits associated with all electricity generation~~

1 specified under the contract. The standard terms and conditions  
2 shall include the requirement that, no later than six months after  
3 the commission's approval of an electricity purchase agreement  
4 entered into pursuant to this article, the following information  
5 about the agreement shall be disclosed by the commission: party  
6 names, resource type, project location, and project capacity.

7 (D) An appropriate minimum margin of procurement above the  
8 minimum procurement level necessary to comply with the  
9 renewables portfolio standard, applied equally to all electrical  
10 corporations, to mitigate the risk that renewable projects planned  
11 or under contract are delayed or canceled. Nothing in this paragraph  
12 shall preclude an electrical corporation from voluntarily proposing  
13 a margin of procurement above the appropriate minimum margin  
14 established by the commission.

15 (3) Consistent with the goal of increasing California's reliance  
16 on eligible renewable energy resources, the renewable energy  
17 procurement plan submitted by an electrical corporation shall  
18 include all of the following:

19 (A) An assessment of annual or multiyear portfolio supplies  
20 and demand to determine the optimal mix of eligible renewable  
21 energy resources with deliverability characteristics that may include  
22 peaking, dispatchable, baseload, firm, and as-available capacity.

23 (B) Potential compliance delays related to the conditions  
24 described in paragraph (4) of subdivision (b) of Section 399.15.

25 (C) A bid solicitation setting forth the need for eligible  
26 renewable energy resources of each deliverability characteristic,  
27 required online dates, and locational preferences, if any.

28 (D) A status update on the development schedule of all eligible  
29 renewable resources currently under contract.

30 (E) Consideration of mechanisms for price adjustments  
31 associated with the costs of key components for eligible renewable  
32 energy resource projects with online dates more than 24 months  
33 after the date of contract execution.

34 (F) An assessment of the risk that an eligible renewable energy  
35 resource will not be built, or that construction will be delayed,  
36 with the result that electricity will not be delivered as required by  
37 the contract.

38 (4) In soliciting and procuring eligible renewable energy  
39 resources, each electrical corporation shall offer contracts of no

1 less than 10 years in duration, unless the commission approves of  
2 a contract of shorter duration.

3 ~~(5) In soliciting and procuring eligible renewable energy~~  
4 ~~resources for California-based projects, each electrical corporation~~  
5 ~~shall give preference to renewable energy projects that provide~~  
6 ~~environmental and economic benefits to communities afflicted~~  
7 ~~with poverty or high unemployment, or that suffer from high~~  
8 ~~emission levels of toxic air contaminants, criteria air pollutants,~~  
9 ~~and greenhouse gases.~~

10 ~~(b) A retail seller may enter into a combination of long- and~~  
11 ~~short-term contracts for delivery of electricity and associated~~  
12 ~~renewable energy credits. The commission may authorize a retail~~  
13 ~~seller to enter into a contract of less than 10 years' duration with~~  
14 ~~an eligible renewable energy resource, if the commission has~~  
15 ~~established, for each retail seller, minimum quantities of eligible~~  
16 ~~renewable energy resources to be procured through contracts of~~  
17 ~~at least 10 years' duration.~~

18 ~~(c) The commission shall review and accept, modify, or reject~~  
19 ~~each electrical corporation's renewable energy procurement plan~~  
20 ~~prior to the commencement of renewable procurement pursuant~~  
21 ~~to this article by an electrical corporation.~~

22 ~~(d) Unless previously preapproved by the commission, an~~  
23 ~~electrical corporation shall submit a contract for the generation of~~  
24 ~~an eligible renewable energy resource to the commission for review~~  
25 ~~and approval consistent with an approved renewable energy~~  
26 ~~procurement plan. If the commission determines that the bid prices~~  
27 ~~are elevated due to a lack of effective competition among the~~  
28 ~~bidders, the commission shall direct the electrical corporation to~~  
29 ~~renegotiate the contracts or conduct a new solicitation.~~

30 ~~(e) The commission shall establish milestones in the~~  
31 ~~development of the project to evaluate the potential for compliance~~  
32 ~~with the adopted renewable energy procurement plan and a set of~~  
33 ~~actions that will occur as a result of not meeting those milestones.~~  
34 ~~These actions may include, but shall not be limited to, determining~~  
35 ~~a cure period for failure to meet milestones, a suspense period on~~  
36 ~~the contract online date for events beyond the developer's control~~  
37 ~~that cause a failure to meet milestones, allowing other developers~~  
38 ~~that are prepared to go forward to move ahead of suspended~~  
39 ~~contracts, and the forfeiture of deposits.~~

1 (f) If an electrical corporation fails to comply with a commission  
2 order adopting a renewable energy procurement plan, the  
3 commission shall exercise its authority pursuant to Section 2113  
4 to require compliance. The commission shall enforce comparable  
5 penalties on any retail seller that is not an electrical corporation  
6 that fails to meet the procurement targets established pursuant to  
7 Section 399.15.

8 (g) (1) The commission may authorize a procurement entity to  
9 enter into contracts on behalf of customers of a retail seller for  
10 deliveries of eligible renewable energy resources to satisfy the  
11 retail seller's renewables portfolio standard procurement  
12 requirements. The commission may not require any person or  
13 corporation to act as a procurement entity or require any party to  
14 purchase eligible renewable energy resources from a procurement  
15 entity.

16 (2) Subject to review and approval by the commission, the  
17 procurement entity shall be permitted to recover reasonable  
18 administrative and procurement costs through the retail rates of  
19 end-use customers that are served by the procurement entity and  
20 are directly benefiting from the procurement of eligible renewable  
21 energy resources.

22 (h) Procurement and administrative costs associated with  
23 contracts entered into by an electrical corporation for eligible  
24 renewable energy resources pursuant to this article and approved  
25 by the commission shall be deemed reasonable and shall be  
26 recoverable in rates.

27 (i) Construction, alteration, demolition, installation, and repair  
28 work on an eligible renewable energy resource that receives  
29 production incentives pursuant to Section 25742 of the Public  
30 Resources Code, including work performed to qualify, receive, or  
31 maintain production incentives are "public works" for the purposes  
32 of Chapter 1 (commencing with Section 1720) of Part 7 of Division  
33 2 of the Labor Code.

34 SEC. 16. Section 399.14 of the Public Utilities Code is  
35 repealed.

36 SEC. 17. Section 399.14 is added to the Public Utilities Code,  
37 to read:

38 399.14. (a) (1) An electrical corporation may, pursuant to  
39 Chapter 5 (commencing with Section 1001), and in order to meet  
40 its renewables portfolio standard procurement requirements, apply

1 to the commission for approval to construct, own, and operate an  
2 eligible renewable energy resource.

3 (2) If the proposed eligible renewable energy resource complies  
4 with the requirements of subdivision (b), the commission shall  
5 approve an application filed pursuant to paragraph (1), until the  
6 commission has approved applications for eligible renewable  
7 energy resources for the electrical corporation that, when  
8 constructed and operating, will provide 8.25 percent of the  
9 electrical corporation's anticipated retail sales by December 31,  
10 2020.

11 (3) The commission may approve additional applications for  
12 eligible renewable energy resources once the commission has  
13 approved sufficient applications for eligible renewable energy  
14 resources for the electrical corporation that, when constructed and  
15 operating, will provide 8.25 percent of the electrical corporation's  
16 anticipated retail sales by December 31, 2020.

17 (b) The commission shall not approve any application by an  
18 electrical corporation pursuant to subdivision (a) unless both of  
19 the following conditions are met:

20 (1) The eligible renewable energy resource utilizes a viable  
21 technology at a reasonable cost.

22 (2) The eligible renewable energy resource provides comparable  
23 or superior value to ratepayers when compared to then recent or  
24 contemporaneous solicitations for generation provided by eligible  
25 renewable energy resources.

26 (c) In approving any application by an electrical corporation  
27 for approval to construct, own, and operate an eligible renewable  
28 energy resource, the commission shall apply traditional  
29 cost-of-service ratemaking, including reasonableness review after  
30 construction is completed.

31 ~~SEC. 18.~~

32 *SEC. 7.* Section 399.15 of the Public Utilities Code is repealed.

33 ~~SEC. 19.~~

34 *SEC. 8.* Section 399.15 is added to the Public Utilities Code,  
35 to read:

36 399.15. (a) In order to fulfill unmet long-term resource needs,  
37 the commission shall establish a renewables portfolio standard  
38 requiring all retail sellers to procure a minimum quantity of  
39 electricity generated by eligible renewable energy resources as a  
40 specified percentage of total kilowatthours sold to their retail

1 end-use customers each compliance period to achieve the targets  
2 established under this article.

3 (b) The commission shall implement renewables portfolio  
4 standard procurement requirements *only* as follows:

5 (1) Each retail seller shall procure the following minimum  
6 percentages of eligible renewable energy resources in the following  
7 years, and continue to procure at least those percentages in  
8 subsequent years:

9 ~~(A) Twenty percent by December 31, 2012.~~

10 ~~(B) Twenty-three percent by December 31, 2014.~~

11 ~~(C) Twenty-six percent by December 31, 2016.~~

12 ~~(D) Thirty percent by December 31, 2018.~~

13 (A) *Until December 31, 2012, the same percentage as actually*  
14 *achieved by the retail seller during 2009.*

15 (B) *Twenty percent by December 31, 2012.*

16 (C) *Twenty-five percent by December 31, 2016.*

17 ~~(E)~~

18 (D) *Thirty-three percent by December 31, 2020.*

19 (2) A retail seller with 33 percent of its retail sales of electricity  
20 procured from eligible renewable energy resources in any year  
21 shall not be required to increase its procurement of renewable  
22 energy resources, except to the extent required to maintain a 33  
23 percent renewables portfolio standard. A retail seller may  
24 voluntarily increase its procurement of eligible renewable energy  
25 resources beyond the renewables portfolio standard procurement  
26 requirements.

27 (3) Only for purposes of establishing the renewables portfolio  
28 standard procurement requirements of paragraph (1), the  
29 commission shall include all electricity sold to retail customers by  
30 the Department of Water Resources pursuant to Section 80100 of  
31 the Water Code in the calculation of retail sales by an electrical  
32 corporation.

33 (4) The commission may only allow a retail seller for a  
34 maximum of two years per request to delay compliance with a  
35 renewables portfolio standard procurement requirement established  
36 pursuant to subparagraph ~~(A), (B), (C), or (D)~~ (B) or (C) of  
37 paragraph (1), if it finds that the retail seller has demonstrated that  
38 either of the following conditions will prevent timely compliance:

39 (A) There is inadequate transmission capacity to allow for  
40 sufficient electricity to be delivered from proposed eligible

1 renewable energy resource projects using the current operational  
2 protocols of the Independent System Operator (ISO). The  
3 commission shall consult with the ISO in making its findings  
4 relative to the existence of this condition. In making its findings  
5 relative to the existence of this condition with respect to a retail  
6 seller that owns transmission lines, the commission shall consider  
7 both of the following:

8 (i) Whether the retail seller has undertaken all reasonable  
9 measures to develop and construct new transmission lines or  
10 upgrades to existing lines in a timely fashion.

11 (ii) Whether the retail seller has taken all reasonable operational  
12 measures, as verified by the ISO, to maximize deliveries of  
13 electricity from eligible renewable energy resources in advance  
14 of transmission availability.

15 (B) Unanticipated ~~permitting—and—interconnection,~~  
16 *interconnection, or other* delays for procured eligible renewable  
17 energy resource projects, *or there is an insufficient supply of*  
18 *delivered electricity from eligible renewable energy resources*  
19 *available to the retail seller.* In making this finding, the  
20 commission shall consider whether the retail seller has prudently  
21 managed portfolio risks, relied on sufficient viable projects, *sought*  
22 *to develop its own eligible renewable energy resources,* and  
23 procured an appropriate minimum margin of procurement above  
24 the minimum procurement level necessary to comply with the  
25 renewables portfolio standard to compensate for foreseeable delays  
26 *or insufficient supply.*

27 (5) ~~The~~ *Prior to granting a delay pursuant to paragraph (4),*  
28 *the* commission shall require a retail seller to demonstrate that it  
29 has presented evidence that it has made material progress in  
30 reducing its compliance deficit and has taken all reasonable  
31 measures consistent with this article to procure cost-effective  
32 distributed generation and renewable energy credits consistent  
33 with the restrictions in paragraph (6) of subdivision (a) of Section  
34 399.21.

35 (6) The commission may not approve any request to delay a  
36 compliance obligation for which it has already granted a delay  
37 unless a retail seller presents evidence that it has *made material*  
38 *progress in reducing its compliance deficiency and has* identified  
39 and taken all reasonable actions under its control to pursue



1 additional options to comply with the delayed interim procurement  
2 obligation and remove impediments that are related to its delay.

3 (7) The commission may not authorize any delay in achieving  
4 the 33 percent by December 31, 2020, renewables portfolio  
5 standard procurement requirement of subparagraph-(E) (D) of  
6 paragraph (1).

7 (8) If a retail seller fails to procure sufficient eligible renewable  
8 energy resources to comply with a renewables portfolio standard  
9 procurement requirement and fails to obtain an order from the  
10 commission authorizing a compliance delay pursuant to paragraph  
11 (4), the commission shall exercise its authority pursuant to Section  
12 2113.

13 (c) The commission shall establish a methodology to determine  
14 the market price of electricity for terms corresponding to the length  
15 of contracts with eligible renewable energy resources, in  
16 consideration of the long-term ownership, operating, and  
17 fixed-price fuel costs associated with fixed-price electricity from  
18 new generating facilities. The methodology shall reflect all of the  
19 following:

20 (1) The value of different products including baseload, peaking,  
21 and as-available electricity.

22 (2) All current and anticipated environmental compliance costs,  
23 including mitigation of emissions of greenhouse gases and air  
24 pollution offsets associated with the operation of new generating  
25 facilities.

26 ~~(d) The commission shall establish a limitation for each~~  
27 ~~electrical corporation on the annual expenditures above the market~~  
28 ~~prices determined in subdivision (c) for the procurement of all~~  
29 ~~eligible renewable energy resources that are used to comply with~~  
30 ~~the electrical corporation's renewables portfolio standard. The~~  
31 ~~commission shall update the limitation on a biennial basis. The~~  
32 ~~annual cost limitation shall equal 6 percent of the total bundled~~  
33 ~~electric revenues recorded by the electrical corporation for the~~  
34 ~~prior calendar year, or for an updated limitation, for the calendar~~  
35 ~~year prior to the year in which the commission is preparing the~~  
36 ~~update. Total bundled electric revenues shall include revenues~~  
37 ~~collected by the electrical corporation on behalf of the Department~~  
38 ~~of Water Resources for procurement activities conducted pursuant~~  
39 ~~to Division 27 (commencing with Section 80000) of the Water~~  
40 ~~Code. The commission shall not reduce the limitation as a result~~

1 of changes in bundled electric revenues since the previous biennial  
2 update. The annual limitation, as modified by subsequent updates;  
3 shall apply to the net annual above-market costs projected to be  
4 incurred during each future year.

5 (e) ~~The net annual above-market costs of all procurement of~~  
6 ~~eligible renewable energy resources shall be counted toward the~~  
7 ~~annual cost limitation if all of the following conditions are satisfied:~~

8 ~~(1) The procurement has been approved by the commission.~~

9 ~~(2) The procurement is used to meet the renewables portfolio~~  
10 ~~standard procurement requirements established pursuant to~~  
11 ~~paragraph (1) of subdivision (b).~~

12 ~~(3) The procurement is submitted for approval to the commission~~  
13 ~~after January 1, 2011.~~

14 ~~(4) The above-market costs of procurement do not include any~~  
15 ~~indirect expenses, including imbalance energy charges, sale of~~  
16 ~~excess energy, decreased generation from existing resources, or~~  
17 ~~transmission upgrades.~~

18 ~~(5) Calculations of net annual above-market costs shall include,~~  
19 ~~as a reduction to the total above-market costs, procurement that~~  
20 ~~satisfies paragraphs (1), (2), and (3) and is below the market prices~~  
21 ~~determined in subdivision (c) for each year.~~

22 ~~(6) The commission has accounted for the potential that some~~  
23 ~~procured resources may be delayed or canceled.~~

24 *(d) (1) The commission shall establish a limitation for each*  
25 *electrical corporation on the expenditures above the market costs*  
26 *determined in subdivision (c) for the procurement of all eligible*  
27 *renewable energy resources that are used to comply with the*  
28 *electrical corporation's renewables portfolio standard. The cost*  
29 *limitation shall equal 6 percent of the total bundled electric*  
30 *revenues recorded by the electrical corporation in 2008 multiplied*  
31 *by the number of years remaining until 2020. Total bundled electric*  
32 *revenues shall include revenues collected by the electrical*  
33 *corporation on behalf of the Department of Water Resources for*  
34 *procurement activities conducted pursuant to Division 27*  
35 *(commencing with Section 80000) of the Water Code.*

36 *(2) The calculation of the above-market costs shall include all*  
37 *procurement of eligible renewable energy resources that are used*  
38 *to comply with the electrical corporation's renewables portfolio*  
39 *standard that are submitted for approval to the commission after*  
40 *January 1, 2010.*

1 (3) *The above-market costs of procurement do not include any*  
2 *indirect expenses, including imbalance energy charges, sale of*  
3 *excess energy, decreased generation from existing resources, or*  
4 *transmission upgrades.*

5 (4) *Calculations of the above-market costs shall include, as a*  
6 *reduction to the total above-market costs, procurement from*  
7 *eligible renewable energy resources that are used to meet the*  
8 *renewables portfolio standard procurement requirements*  
9 *established pursuant to paragraph (1) of subdivision (b) that are*  
10 *below the market prices determined in subdivision (c) for each*  
11 *year.*

12 (5) *In calculating the limit on above-market costs established*  
13 *in paragraph (1), the commission shall account for the potential*  
14 *that some procured resources may be delayed or canceled.*

15 ~~(f) If the annual~~

16 (e) *If the cost limitation for an electrical corporation is*  
17 *insufficient to support the projected net above-market costs*  
18 *identified in subdivision (c) for a future year (d), the commission*  
19 *shall allow the electrical corporation to refrain from entering into*  
20 *new contracts or to construct facilities for that future year beyond*  
21 *the quantity of eligible renewable energy resources that can be*  
22 *procured at or below the market prices established in subdivision*  
23 *(c). If the cost limitation is not reached for an individual year, any*  
24 *amount below the cost limitation may not be applied to a future*  
25 *year. (c).*

26 ~~(g)~~

27 (f) *Notwithstanding subdivision—(f) (e), if an electrical*  
28 *corporation's net annual above-market costs for a future year*  
29 *exceed the electrical corporation's—annual cost limitation, the*  
30 *electrical corporation may voluntarily propose to procure eligible*  
31 *renewable energy resources at above-market prices. Any voluntary*  
32 *procurement under this paragraph shall be subject to commission*  
33 *approval prior to the expense being recovered in rates.*

34 ~~(h)~~

35 (g) (1) *The commission shall monitor the status of the—annual*  
36 *cost limitation for each electrical corporation in order to ensure*  
37 *compliance with this article.*

38 (2) *If the commission determines that an electrical corporation*  
39 *may exceed its—annual cost limitation prior to achieving the*  
40 *renewables portfolio standard procurement requirements, the*

1 commission shall do all of the following within 60 days of making  
2 that determination:

3 (A) Investigate and identify the reasons why the electrical  
4 corporation may exceed its annual cost limitation.

5 (B) Identify those actions that can be taken to ensure that the  
6 electrical corporation continues to comply with its renewables  
7 portfolio standard procurement requirements.

8 (C) Notify the appropriate policy and fiscal committees of the  
9 Legislature that the electrical corporation may exceed its ~~annual~~  
10 cost limitation, the reasons why the electrical corporation may  
11 exceed its ~~annual~~ cost limitation, and those actions that may be  
12 taken by the electrical corporation to comply with the renewables  
13 portfolio standard procurement requirements.

14 (3) The commission shall examine mechanisms for mitigating  
15 the potential impact of low fossil fuel prices on the ~~annual~~ cost  
16 limitation of each electrical corporation and make  
17 recommendations to the Legislature on any changes in law it  
18 identifies to mitigate those impacts.

19 ~~(i)~~

20 (h) The commission shall examine and adopt mechanisms to  
21 limit the potential influence of the market prices established in  
22 subdivision (c) on seller pricing and buyer contract selection.

23 ~~(j)~~

24 (i) The establishment of a renewables portfolio standard shall  
25 not constitute implementation by the commission of the federal  
26 Public Utility Regulatory Policies Act of 1978 (Public Law  
27 95-617).

28 ~~(k)~~

29 (j) The commission shall consult with the Energy Commission  
30 in establishing renewables portfolio standard policies.

31 ~~SEC. 20.~~

32 *SEC. 9.* Section 399.16 of the Public Utilities Code is amended  
33 and renumbered to read:

34 399.21. (a) The commission, by rule, shall authorize the use  
35 of renewable energy credits to satisfy the renewables portfolio  
36 standard procurement requirements established pursuant to this  
37 article, subject to the following conditions:

38 (1) Prior to authorizing any renewable energy credit to be used  
39 toward satisfying the renewables portfolio standard procurement  
40 requirements, the commission and the Energy Commission shall

1 conclude that the tracking system established pursuant to  
2 subdivision (c) of Section 399.25, is operational, is capable of  
3 independently verifying that the electricity is generated by an  
4 eligible renewable energy resource and is delivered to the retail  
5 seller, and can ensure that renewable energy credits shall not be  
6 double counted by any seller of electricity within the service  
7 territory of the Western Electricity Coordinating Council (WECC).

8 (2) Each renewable energy credit shall be counted only once  
9 for compliance with the renewables portfolio standard of this state  
10 or any other state, or for verifying retail product claims in this state  
11 or any other state.

12 (3) All revenues received by an electrical corporation for the  
13 sale of a renewable energy credit shall be credited to the benefit  
14 of ratepayers.

15 (4) No renewable energy credits shall be created for electricity  
16 generated pursuant to any electricity purchase contract with a retail  
17 seller or a local publicly owned electric utility executed before  
18 January 1, 2005, unless the contract contains explicit terms and  
19 conditions specifying the ownership or disposition of those credits.  
20 Deliveries under those contracts shall be tracked through the  
21 accounting system described in subdivision (b) of Section 399.25  
22 and included in the quantity of eligible renewable energy resources  
23 of the purchasing retail seller pursuant to Section 399.15.

24 (5) No renewable energy credits shall be created for electricity  
25 generated under any electricity purchase contract executed after  
26 January 1, 2005, pursuant to the federal Public Utility Regulatory  
27 Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Deliveries  
28 under the electricity purchase contracts shall be tracked through  
29 the accounting system described in subdivision (b) of Section  
30 399.12 and count toward the renewables portfolio standard  
31 obligations of the purchasing retail seller.

32 (6) The use, by a retail seller, of renewable energy credits  
33 associated with electricity that does not satisfy the delivery  
34 requirements of subdivision (b) of Section 399.12 shall be limited  
35 to ~~20~~ 25 percent of the retail seller's renewables portfolio standard  
36 procurement requirements.

37 (7) If a retail seller exceeds the ~~20~~ 25 percent limitation of  
38 paragraph (6) as a result of contracts executed prior to September  
39 ~~16~~ 18, 2009, and if those contracts are approved by the commission,  
40 ~~the commission shall allow the retail seller~~ *the retail seller shall*

1 *be allowed to fully use the renewable energy credits toward*  
2 *meeting its renewables portfolio standard procurement*  
3 *requirements through the original term of the approved contracts,*  
4 *but may not procure additional renewable energy credits*  
5 *associated with electricity that does not satisfy the delivery*  
6 *requirements of subdivision (b) of Section 399.12. For a local*  
7 *publicly owned electric utility acting pursuant to subdivision (c)*  
8 *of Section 399.30, contract execution occurs on the date of project*  
9 *approval by the utility's governing body board or the board of a*  
10 *joint powers authority of which the utility is a member and that*  
11 *approval shall take the place of approval by the commission for*  
12 *a retail seller.*

13 ~~(7)~~

14 (8) No renewable energy credit shall be eligible for compliance  
15 with a renewables portfolio standard procurement requirement  
16 after 18 months from the initial date of generation of the associated  
17 electricity. A renewable energy credit is used for compliance when  
18 the retail seller or local publicly owned electric utility irrevocably  
19 retires the credit within the tracking system established pursuant  
20 to subdivision (c) of Section 399.25.

21 (9) *If an electrical corporation or local publicly owned electric*  
22 *utility owns and operates eligible renewable energy resources*  
23 *constructed after January 1, 2008, in its service territory or in the*  
24 *service territory of another electrical corporation or local publicly*  
25 *owned utility, it may use additional renewable energy credits*  
26 *beyond those allowed by paragraphs (6) and (7) in an amount*  
27 *authorized by this paragraph. The additional renewable energy*  
28 *credits shall be equal to the average annual amount of delivered*  
29 *electricity from the owned and operated eligible renewable energy*  
30 *resources, or the forecast of the delivered electricity from the*  
31 *resource after its construction has begun. Ownership of the*  
32 *resources shall be obtained by the electrical corporation no later*  
33 *than the time of commencement of commercial operation. The*  
34 *maximum amount of additional renewable energy credits*  
35 *authorized under this section shall not exceed 5 percent of the*  
36 *electrical corporation's renewables portfolio standard procurement*  
37 *requirements.*

38 ~~(8)~~

39 (10) Any additional condition that the commission determines  
40 is reasonable.

(b) The commission shall allow an electrical corporation to recover the reasonable costs of purchasing renewable energy credits in rates.

~~SEC. 21.~~

*SEC. 10.* Section 399.17 of the Public Utilities Code is amended to read:

399.17. (a) Subject to the provisions of this section, the requirements of this article apply to an electrical corporation with 60,000 or fewer customer accounts in California ~~that and that~~ *either serves retail end-use customers outside California or that is located in a control area that is not under the operational control of the Independent System Operator and receives the majority of its electrical requirements from generating facilities located outside of California.*

(b) For an electrical corporation with 60,000 or fewer customer accounts in California ~~that and that either serves retail end-use customers outside California, or that is located in a control area that is not under the operational control of the Independent System Operator and receives the majority of its electrical requirements from generating facilities located outside of California,~~ an eligible renewable energy resource includes a facility that is located outside California, if the facility is connected to the Western Electricity Coordinating Council (WECC) transmission system, provided all of the following conditions are met:

(1) The electricity generated by the facility is procured by the electrical corporation on behalf of its California customers, and is not used to fulfill renewable energy procurement requirements in other states.

(2) The electrical corporation participates in, and complies with, the accounting system administered by the Energy Commission pursuant to subdivision (b) of Section 399.25.

(3) The Energy Commission verifies that the electricity generated by the facility is eligible to meet the ~~biennial procurement targets~~ *procurement requirements* of this article.

(c) The commission shall determine the ~~biennial procurement targets~~ *procurement requirements* for an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California, as a specified percentage of total kilowatthours sold by the electrical corporation to its retail end-use customers in California in a calendar year.

(d) An electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California, may use an integrated resource plan prepared in compliance with the requirements of another state utility regulatory commission, to fulfill the requirement to prepare a renewable energy procurement plan pursuant to this article, provided the plan meets the requirements of Sections 399.11, 399.12, 399.13, or 399.14, and 399.25, as modified by this section.

(e) Procurement and administrative costs associated with long-term contracts entered into by an electrical corporation with 60,000 or fewer customer accounts in California that *either* serves retail end-use customers outside California, *or that is located in a control area that is not under the operational control of the Independent System Operator and receives the majority of its electrical requirements from generating facilities located outside of California*, for eligible renewable energy resources pursuant to this article, at or below the market price determined by the commission pursuant to subdivision (c) of Section 399.15, shall be deemed reasonable per se, and shall be recoverable in rates of the electrical corporation's California customers, provided the costs are not recoverable in rates in other states served by the electrical corporation.

~~SEC. 22.~~

*SEC. 11.* Section 399.18 is added to the Public Utilities Code, to read:

399.18. The commission, in consultation with the Energy Commission, shall report to the Legislature by January 1 of every even-numbered year on all of the following:

(a) The progress and status of procurement activities by each retail seller.

(b) The status of permitting and siting eligible renewable energy resources and transmission facilities necessary to deliver the electricity generated to load, including the time taken to permit each eligible renewable energy resource and transmission line or upgrade, explanations of failures to meet permitting milestones, and recommendations for improvements to expedite permitting and siting processes.

(c) The projected ability of each electrical corporation to meet the renewables portfolio standard procurement requirements under



1 the cost limitations in subdivision (d) of Section 399.15 and any  
2 recommendations for revisions of those cost limitations.

3 (d) Any barriers to, and policy recommendations for, achieving  
4 the renewables portfolio standard pursuant to this article.

5 SEC. 23. Section 399.26 is added to the Public Utilities Code,  
6 to read:

7 399.26. (a) In order for the state to meet the requirements of  
8 the ~~California Renewables Portfolio Standard Program~~,  
9 substantially increased amounts of electricity generated by eligible  
10 renewable energy resources must be integrated with, and  
11 interconnected to, the transmission grid that is either owned by,  
12 or under the operational control of, the local publicly owned  
13 electric utilities and the transmission grid that is under the  
14 operational control of the Independent System Operator.

15 (b) The Independent System Operator and the balancing  
16 authority of each area in California shall do both of the following:

17 (1) Work cooperatively to integrate and interconnect eligible  
18 renewable energy resources to the transmission grid by the most  
19 efficient means possible with the goal of minimizing the impact  
20 and cost of new transmission needed to meet both reliability needs  
21 and the renewables portfolio standard procurement requirements.

22 (2) Accomplish the requirements of paragraph (1) in a manner  
23 that respects the ownership, business, and dispatch models for  
24 transmission facilities owned by electrical corporations, local  
25 publicly owned electric utilities, joint power agencies, and  
26 merchant transmission companies.

27 (c) The Independent System Operator shall seek any approvals  
28 from the Federal Energy Regulatory Commission that are necessary  
29 to accomplish the goals and requirements of this article.

30 (d) In order to maintain electric service reliability and to  
31 minimize the construction of fossil fuel electrical generation  
32 capacity to support the integration of intermittent renewable  
33 electrical generation into the electrical grid, by July 1, 2010, the  
34 Energy Commission shall update its previously conducted studies  
35 to determine the effective load carrying capacity of wind and solar  
36 energy resources on the California electrical grid. The Energy  
37 Commission shall use those effective load carrying capacity values  
38 in establishing the contribution of wind and solar energy resources  
39 toward meeting the resource adequacy requirements established  
40 pursuant to Section 380.

1 ~~SEC. 24.~~

2 *SEC. 12.* Section 399.30 is added to the Public Utilities Code,  
3 to read:

4 399.30. (a) In order to fulfill unmet long-term generation  
5 resource needs, each local publicly owned electric utility shall  
6 adopt and implement a renewable energy resources procurement  
7 plan that requires the utility to procure a minimum quantity of  
8 electricity generated by eligible renewable energy resources,  
9 including renewable energy credits, as a specified percentage of  
10 total kilowatthours sold to the utility's retail end-use customers,  
11 each calendar year, to achieve the targets of subdivision (b).

12 (b) The governing board shall implement procurement targets  
13 for a local publicly owned electric utility that require the utility to  
14 procure the following minimum percentages of eligible renewable  
15 energy resources in the following years, *and continue to procure*  
16 *those percentages in subsequent years:*

17 ~~(1) Twenty percent by December 31, 2012.~~

18 ~~(2) Twenty-three percent by December 31, 2014.~~

19 ~~(3) Twenty-six percent by December 31, 2016.~~

20 ~~(4) Thirty percent by December 31, 2018.~~

21 *(1) Until December 31, 2012, the same percentage as actually*  
22 *achieved by the utility in 2009.*

23 *(2) Twenty percent by December 31, 2013.*

24 *(3) Twenty-five percent by December 31, 2016.*

25 ~~(5)~~

26 *(4) Thirty-three percent by December 31, 2020.*

27 (c) *(1)* A local publicly owned electric utility may use renewable  
28 energy credits associated with electricity generated, but not  
29 necessarily delivered by, an eligible renewable energy resource,  
30 to meet its renewables portfolio standard procurement requirements  
31 to the same extent as permitted for a retail seller pursuant to  
32 subdivision (a) of Section 399.21.

33 *(2) A local publicly owned electric utility may adopt rules*  
34 *permitting the utility to apply excess procurement in one year to*  
35 *subsequent years in the same manner as allowed for retail sellers*  
36 *pursuant to Section 399.13.*

37 (d) The governing board of the local publicly owned electric  
38 utility shall adopt a program for the enforcement of this article on  
39 or before January 1, 2011. The program shall be adopted at a  
40 publicly noticed meeting offering all interested parties an

1 opportunity to comment. Not less than 30 days' notice shall be  
2 given to the public of any meeting held for purposes of adopting  
3 the program. Not less than 10 days' notice shall be given to the  
4 public before any meeting is held to make a substantive change to  
5 the program.

6 (e) (1) Each local publicly owned electric utility shall annually  
7 post notice, in accordance with Chapter 9 (commencing with  
8 Section 54950) of Part 1 of Division 2 of Title 5 of the Government  
9 Code, whenever its governing body will deliberate in public on its  
10 renewable energy resources procurement plan.

11 (2) Contemporaneous with the posting of the notice of a public  
12 meeting to consider the renewable energy resources procurement  
13 plan, the local publicly owned electric utility shall notify the  
14 Energy Commission of the date, time, and location of the meeting  
15 in order to enable the Energy Commission to post the information  
16 on its Internet Web site. This requirement is satisfied if the local  
17 publicly owned electric utility provides the uniform resource  
18 locator (URL) that links to this information.

19 (3) Upon distribution to its governing body of information  
20 related to its renewable energy resources procurement status and  
21 future plans, for its consideration at a noticed public meeting, the  
22 local publicly owned electric utility shall make that information  
23 available to the public and shall provide the Energy Commission  
24 with an electronic copy of the documents for posting on the Energy  
25 Commission's Internet Web site. This requirement is satisfied if  
26 the local publicly owned electric utility provides the uniform  
27 resource locator (URL) that links to the documents or information  
28 regarding other manners of access to the documents.

29 ~~(f) Within 30 business days after a local publicly owned electric~~  
30 ~~utility executes a renewable energy resources procurement contract,~~  
31 ~~the local publicly owned electric utility shall submit, to the Energy~~  
32 ~~Commission, documentation that includes all of the following:~~

33 *(f) A local publicly owned electric utility shall annually submit*  
34 *to the Energy Commission documentation regarding eligible*  
35 *renewable energy resources procurement contracts that it executed*  
36 *during the prior year, as follows:*

37 (1) A description of the eligible renewable energy resource,  
38 including the duration of the contract or electricity purchase  
39 agreement.

1 (2) A description and identification of the electrical generating  
2 facility providing the eligible renewable energy resource under  
3 the contract.

4 (3) An estimate of the percentage increase in the utility's total  
5 retail sales of electricity from eligible renewable energy resources  
6 that will result from the contract.

7 (g) A public utility district that receives all of its electricity  
8 pursuant to a preference right adopted and authorized by the United  
9 States Congress pursuant to Section 4 of the Trinity River Division  
10 Act of August 12, 1955 (Public Law 84-386) shall be in compliance  
11 with the renewable energy procurement requirements of this article.

12 (h) For a local publicly owned electric utility that was in  
13 existence on or before January 1, 2009, that provides retail electric  
14 service to 15,000 or fewer customer accounts in California, and is  
15 interconnected to a balancing authority located outside this state  
16 but within the WECC, an eligible renewable energy resource  
17 includes a facility that is located outside California that is  
18 connected to the WECC transmission system, if all of the following  
19 conditions are met:

20 (1) The electricity generated by the facility is procured by the  
21 local publicly owned electric utility, is delivered to the balancing  
22 authority area in which the local publicly owned electric utility is  
23 located, and is not used to fulfill renewable energy procurement  
24 requirements of other states.

25 (2) The local publicly owned electric utility participates in, and  
26 complies with, the accounting system administered by the Energy  
27 Commission pursuant to Article 4.

28 (3) The Energy Commission verifies that the electricity  
29 generated by the facility is eligible to meet the renewables portfolio  
30 standard procurement requirements.

31 (i) Notwithstanding subdivision (a), for a local publicly owned  
32 electric utility that is a joint powers authority of districts that  
33 furnish electric services other than to residential customers, and  
34 is formed pursuant to the Irrigation District Law (Division 11  
35 (commencing with Section 20500) of the Water Code), the  
36 percentage of total kilowatthours sold to the district's retail end-use  
37 customers, upon which the renewables portfolio standard  
38 procurement requirements in subdivision (b) are calculated, shall  
39 be based on the average retail sales over the previous three years.

1     (j) *A local publicly owned electric utility in a city and county*  
2     *that only receives greater than 67 percent of its electricity sources*  
3     *from hydroelectric generation located within the state that it owns*  
4     *and operates, and that does not meet the definition of a “renewable*  
5     *electrical generation facility” pursuant to Section 25741 of the*  
6     *Public Resources Code, shall be required to procure eligible*  
7     *renewable energy resources, including renewable energy credits,*  
8     *to meet only the electricity demands unsatisfied by its hydroelectric*  
9     *generation in any given year, in order to satisfy its renewable*  
10    *energy procurement requirements.*

11    ~~(j)~~

12    (k) Each local publicly owned electric utility shall report, on an  
13    annual basis, to its customers and to the Energy Commission, all  
14    of the following:

15    (1) Expenditures of public goods funds collected pursuant to  
16    Section 385 for eligible renewable energy resource development.  
17    Reports shall contain a description of programs, expenditures, and  
18    expected or actual results.

19    (2) The resource mix used to serve its customers by energy  
20    source.

21    (3) The utility’s status in implementing a renewables portfolio  
22    standard pursuant to subdivision (a) and the utility’s progress  
23    toward attaining the standard following implementation.

24    ~~(k)~~

25    (l) A local publicly owned electric utility shall retain discretion  
26    over all of the following:

27    (1) The mix of eligible renewable energy resources procured  
28    or owned by the utility and those additional generation resources  
29    procured or owned by the utility for purposes of ensuring resource  
30    adequacy and reliability.

31    (2) The prices paid by the utility for electricity generated by  
32    eligible renewable energy resources.

33    (3) The reasonable costs incurred by the utility for eligible  
34    renewable energy resources owned by the utility.

35    ~~(l)~~

36    (m) On or before July 1, 2010, the Energy Commission shall  
37    adopt regulations specifying procedures for enforcement of this  
38    article. The regulations shall include a public process under which  
39    the Energy Commission may issue a notice of violation and  
40    correction against a local publicly owned electric utility for failure

1 to comply with this article, and for referral of violations to the  
2 State Air Resources Board for penalties pursuant to subdivision  
3 ~~(m)~~ (n).

4 ~~(m)~~

5 (n) (1) Upon a determination by the Energy Commission that  
6 a local publicly owned electric utility has failed to comply with  
7 this article, the Energy Commission shall refer the failure to comply  
8 with this article to the State Air Resources Board which may  
9 impose penalties ~~pursuant to~~ *to enforce this article consistent with*  
10 Part 6 (commencing with Section 38580) of Division 25.5 of the  
11 Health and Safety Code. ~~If~~

12 *(2) For the purpose of this subdivision, this section is an*  
13 *emissions reduction measure pursuant to Section 38580 of the*  
14 *Health and Safety Code.*

15 (3) *If the State Air Resources Board has imposed a penalty upon*  
16 *a local publicly owned electric utility for the utility's failure to*  
17 ~~meet a renewable energy resources comply with this article, the~~  
18 *State Air Resources Board shall not impose an additional penalty*  
19 *for the same infraction, or the same failure to comply, with any*  
20 *renewables procurement requirement imposed upon the utility*  
21 *pursuant to the California Global Warming Solutions Act of 2006*  
22 *(Division 25.5 (commencing with Section 38500) of the Health*  
23 *and Safety Code), the board shall not impose an additional penalty*  
24 ~~pursuant to this section for the utility's failure to comply with the~~  
25 ~~procurement requirements of this article.~~ *and Safety Code).*

26 ~~(n)~~

27 (o) The commission has no authority or jurisdiction to enforce  
28 any of the requirements of this article on a local publicly owned  
29 electric utility.

30 ~~SEC. 25.~~

31 *SEC. 13.* Section 399.31 is added to the Public Utilities Code,  
32 to read:

33 399.31. A retail seller may procure renewable energy credits  
34 associated with deliveries of electricity by an eligible renewable  
35 energy resource to a local publicly owned electric utility, for  
36 purposes of compliance with the renewables portfolio standard  
37 requirements, if both of the following conditions are met:

38 (a) The local publicly owned electric utility has adopted and  
39 implemented a renewable energy resources procurement plan that

1 complies with the renewables portfolio standard adopted by the  
2 Energy Commission pursuant to subdivision (f) of Section 399.25.

3 (b) The local publicly owned electric utility is procuring  
4 sufficient eligible renewable energy resources to satisfy the target  
5 standard, and will not fail to satisfy the target standard in the event  
6 that the renewable energy credit is sold to the retail seller.

7 ~~SEC. 26. Section 454.5 of the Public Utilities Code is amended~~  
8 ~~to read:~~

9 ~~454.5. (a) The commission shall specify the allocation of~~  
10 ~~electricity, including quantity, characteristics, and duration of~~  
11 ~~electricity delivery, that the Department of Water Resources shall~~  
12 ~~provide under its power purchase agreements to the customers of~~  
13 ~~each electrical corporation, which shall be reflected in the electrical~~  
14 ~~corporation's proposed procurement plan. Each electrical~~  
15 ~~corporation shall file a proposed procurement plan with the~~  
16 ~~commission not later than 60 days after the commission specifies~~  
17 ~~the allocation of electricity. The proposed procurement plan shall~~  
18 ~~specify the date that the electrical corporation intends to resume~~  
19 ~~procurement of electricity for its retail customers, consistent with~~  
20 ~~its obligation to serve. After the commission's adoption of a~~  
21 ~~procurement plan, the commission shall allow not less than 60~~  
22 ~~days before the electrical corporation resumes procurement~~  
23 ~~pursuant to this section.~~

24 ~~(b) An electrical corporation's proposed procurement plan shall~~  
25 ~~include, but not be limited to, all of the following:~~

26 ~~(1) An assessment of the price risk associated with the electrical~~  
27 ~~corporation's portfolio, including any utility-retained generation,~~  
28 ~~existing power purchase and exchange contracts, and proposed~~  
29 ~~contracts or purchases under which an electrical corporation will~~  
30 ~~procure electricity, electricity demand reductions, and~~  
31 ~~electricity-related products and the remaining open position to be~~  
32 ~~served by spot market transactions.~~

33 ~~(2) A definition of each electricity product, electricity-related~~  
34 ~~product, and procurement related financial product, including~~  
35 ~~support and justification for the product type and amount to be~~  
36 ~~procured under the plan.~~

37 ~~(3) The duration of the plan.~~

38 ~~(4) The duration, timing, and range of quantities of each product~~  
39 ~~to be procured.~~

~~(5) A competitive procurement process under which the electrical corporation may request bids for procurement-related services, including the format and criteria of that procurement process.~~

~~(6) An incentive mechanism, if any incentive mechanism is proposed, including the type of transactions to be covered by that mechanism, their respective procurement benchmarks, and other parameters needed to determine the sharing of risks and benefits.~~

~~(7) The upfront standards and criteria by which the acceptability and eligibility for rate recovery of a proposed procurement transaction will be known by the electrical corporation prior to execution of the transaction. This shall include an expedited approval process for the commission's review of proposed contracts and subsequent approval or rejection thereof. The electrical corporation shall propose alternative procurement choices in the event a contract is rejected.~~

~~(8) Procedures for updating the procurement plan.~~

~~(9) A showing that the procurement plan will achieve the following:~~

~~(A) The electrical corporation shall, in order to fulfill its unmet resource needs, procure resources from eligible renewable energy resources in an amount sufficient to meet its procurement requirements pursuant to the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3).~~

~~(B) The electrical corporation will create or maintain a diversified procurement portfolio consisting of both short-term and long-term electricity and electricity-related and demand reduction products.~~

~~(C) The electrical corporation will first meet its unmet resource needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible.~~

~~(10) The electrical corporation's risk management policy, strategy, and practices, including specific measures of price stability.~~

~~(11) A plan to achieve appropriate increases in diversity of ownership and diversity of fuel supply of nonutility electrical generation.~~

~~(12) A mechanism for recovery of reasonable administrative costs related to procurement in the generation component of rates.~~



1     ~~(e) The commission shall review and accept, modify, or reject~~  
2 ~~each electrical corporation's procurement plan. The commission's~~  
3 ~~review shall consider each electrical corporation's individual~~  
4 ~~procurement situation, and shall give strong consideration to that~~  
5 ~~situation in determining which one or more of the features set forth~~  
6 ~~in this subdivision shall apply to that electrical corporation. A~~  
7 ~~procurement plan approved by the commission shall contain one~~  
8 ~~or more of the following features, provided that the commission~~  
9 ~~may not approve a feature or mechanism for an electrical~~  
10 ~~corporation if it finds that the feature or mechanism would impair~~  
11 ~~the restoration of an electrical corporation's creditworthiness or~~  
12 ~~would lead to a deterioration of an electrical corporation's~~  
13 ~~creditworthiness:~~

14     ~~(1) A competitive procurement process under which the~~  
15 ~~electrical corporation may request bids for procurement-related~~  
16 ~~services. The commission shall specify the format of that~~  
17 ~~procurement process, as well as criteria to ensure that the auction~~  
18 ~~process is open and adequately subscribed. Any purchases made~~  
19 ~~in compliance with the commission-authorized process shall be~~  
20 ~~recovered in the generation component of rates.~~

21     ~~(2) An incentive mechanism that establishes a procurement~~  
22 ~~benchmark or benchmarks and authorizes the electrical corporation~~  
23 ~~to procure from the market, subject to comparing the electrical~~  
24 ~~corporation's performance to the commission-authorized~~  
25 ~~benchmark or benchmarks. The incentive mechanism shall be~~  
26 ~~clear, achievable, and contain quantifiable objectives and standards.~~  
27 ~~The incentive mechanism shall contain balanced risk and reward~~  
28 ~~incentives that limit the risk and reward of an electrical corporation.~~

29     ~~(3) Upfront achievable standards and criteria by which the~~  
30 ~~acceptability and eligibility for rate recovery of a proposed~~  
31 ~~procurement transaction will be known by the electrical corporation~~  
32 ~~prior to the execution of the bilateral contract for the transaction.~~  
33 ~~The commission shall provide for expedited review and either~~  
34 ~~approve or reject the individual contracts submitted by the electrical~~  
35 ~~corporation to ensure compliance with its procurement plan. To~~  
36 ~~the extent the commission rejects a proposed contract pursuant to~~  
37 ~~this criteria, the commission shall designate alternative procurement~~  
38 ~~choices obtained in the procurement plan that will be recoverable~~  
39 ~~for ratemaking purposes.~~

1     ~~(d) A procurement plan approved by the commission shall~~  
2     ~~accomplish each of the following objectives:~~

3     ~~(1) Enable the electrical corporation to fulfill its obligation to~~  
4     ~~serve its customers at just and reasonable rates.~~

5     ~~(2) Eliminate the need for after-the-fact reasonableness reviews~~  
6     ~~of an electrical corporation's actions in compliance with an~~  
7     ~~approved procurement plan, including resulting electricity~~  
8     ~~procurement contracts, practices, and related expenses. However,~~  
9     ~~the commission may establish a regulatory process to verify and~~  
10    ~~assure that each contract was administered in accordance with the~~  
11    ~~terms of the contract, and contract disputes which may arise are~~  
12    ~~reasonably resolved.~~

13    ~~(3) Ensure timely recovery of prospective procurement costs~~  
14    ~~incurred pursuant to an approved procurement plan. The~~  
15    ~~commission shall establish rates based on forecasts of procurement~~  
16    ~~costs adopted by the commission, actual procurement costs~~  
17    ~~incurred, or combination thereof, as determined by the commission.~~  
18    ~~The commission shall establish power procurement balancing~~  
19    ~~accounts to track the differences between recorded revenues and~~  
20    ~~costs incurred pursuant to an approved procurement plan. The~~  
21    ~~commission shall review the power procurement balancing~~  
22    ~~accounts, not less than semiannually, and shall adjust rates or order~~  
23    ~~refunds, as necessary, to promptly amortize a balancing account,~~  
24    ~~according to a schedule determined by the commission. Until~~  
25    ~~January 1, 2006, the commission shall ensure that any~~  
26    ~~overcollection or undercollection in the power procurement~~  
27    ~~balancing account does not exceed 5 percent of the electrical~~  
28    ~~corporation's actual recorded generation revenues for the prior~~  
29    ~~calendar year excluding revenues collected for the Department of~~  
30    ~~Water Resources. The commission shall determine the schedule~~  
31    ~~for amortizing the overcollection or undercollection in the~~  
32    ~~balancing account to ensure that the 5 percent threshold is not~~  
33    ~~exceeded. After January 1, 2006, this adjustment shall occur when~~  
34    ~~deemed appropriate by the commission consistent with the~~  
35    ~~objectives of this section.~~

36    ~~(4) Moderate the price risk associated with serving its retail~~  
37    ~~customers, including the price risk embedded in its long-term~~  
38    ~~supply contracts, by authorizing an electrical corporation to enter~~  
39    ~~into financial and other electricity-related product contracts.~~

1 ~~(5) Provide for just and reasonable rates, with an appropriate~~  
2 ~~balancing of price stability and price level in the electrical~~  
3 ~~corporation's procurement plan.~~

4 ~~(e) The commission shall provide for the periodic review and~~  
5 ~~prospective modification of an electrical corporation's procurement~~  
6 ~~plan.~~

7 ~~(f) The commission may engage an independent consultant or~~  
8 ~~advisory service to evaluate risk management and strategy. The~~  
9 ~~reasonable costs of any consultant or advisory service is a~~  
10 ~~reimbursable expense and eligible for funding pursuant to Section~~  
11 ~~631.~~

12 ~~(g) The commission shall adopt appropriate procedures to ensure~~  
13 ~~the confidentiality of any market sensitive information submitted~~  
14 ~~in an electrical corporation's proposed procurement plan or~~  
15 ~~resulting from or related to its approved procurement plan,~~  
16 ~~including, but not limited to, proposed or executed power purchase~~  
17 ~~agreements, data request responses, or consultant reports, or any~~  
18 ~~combination, provided that the Division of Ratepayer Advocates~~  
19 ~~and other consumer groups that are nonmarket participants shall~~  
20 ~~be provided access to this information under confidentiality~~  
21 ~~procedures authorized by the commission.~~

22 ~~(h) Nothing in this section alters, modifies, or amends the~~  
23 ~~commission's oversight of affiliate transactions under its rules and~~  
24 ~~decisions or the commission's existing authority to investigate and~~  
25 ~~penalize an electrical corporation's alleged fraudulent activities,~~  
26 ~~or to disallow costs incurred as a result of gross incompetence,~~  
27 ~~fraud, abuse, or similar grounds. Nothing in this section expands,~~  
28 ~~modifies, or limits the State Energy Resources Conservation and~~  
29 ~~Development Commission's existing authority and responsibilities~~  
30 ~~as set forth in Sections 25216, 25216.5, and 25323 of the Public~~  
31 ~~Resources Code.~~

32 ~~(i) An electrical corporation that serves less than 500,000 electric~~  
33 ~~retail customers within the state may file with the commission a~~  
34 ~~request for exemption from this section, which the commission~~  
35 ~~shall grant upon a showing of good cause.~~

36 ~~(j) (1) Prior to its approval pursuant to Section 851 of any~~  
37 ~~divestiture of generation assets owned by an electrical corporation~~  
38 ~~on or after the date of enactment of the act adding this section, the~~  
39 ~~commission shall determine the impact of the proposed divestiture~~  
40 ~~on the electrical corporation's procurement rates and shall approve~~

1 a divestiture only to the extent it finds, taking into account the  
2 effect of the divestiture on procurement rates, that the divestiture  
3 is in the public interest and will result in net ratepayer benefits.

4 (2) Any electrical corporation's procurement necessitated as a  
5 result of the divestiture of generation assets on or after the effective  
6 date of the act adding this subdivision shall be subject to the  
7 mechanisms and procedures set forth in this section only if its  
8 actual cost is less than the recent historical cost of the divested  
9 generation assets.

10 (3) Notwithstanding paragraph (2), the commission may deem  
11 proposed procurement eligible to use the procedures in this section  
12 upon its approval of asset divestiture pursuant to Section 851.

13 ~~SEC. 27.~~

14 *SEC. 14.* Article 11 (commencing with Section 910) is added  
15 to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code,  
16 to read:

17  
18 Article 11. Reports  
19

20 910. (a) The commission shall, on an annual basis by February  
21 1 of each year, prepare and submit to the policy and fiscal  
22 committees of the Legislature a written report summarizing the  
23 following information:

24 (1) All electrical corporation revenue requirement increases  
25 associated with meeting the renewables portfolio standard, as  
26 defined in Section 399.12, including direct procurement costs for  
27 eligible renewable energy resources and renewable energy credits,  
28 administrative expenses for procurement, expenses incurred to  
29 ensure a reliable supply of electricity, and expenses for upgrades  
30 to the electrical transmission and distribution grid necessary to the  
31 delivery of electricity from eligible renewable energy resources  
32 to load.

33 (2) All cost savings experienced, or costs avoided, by electrical  
34 corporations as a result of meeting the renewables portfolio  
35 standard.

36 (3) All costs incurred by electrical corporations for incentives  
37 for distributed and renewable generation, including the  
38 self-generation incentive program, the California Solar Initiative,  
39 and net energy metering.

1 (4) All cost savings experienced, or costs avoided, by electrical  
2 corporations as a result of incentives for distributed and renewable  
3 generation.

4 (5) All renewable, fossil fuel, and nuclear procurement costs,  
5 research, study, or pilot program costs, or other program costs for  
6 which an electrical corporation is seeking recovery in rates, that  
7 is pending determination or approval by the commission.

8 (6) The decision number for each decision of the commission  
9 of recovery in rates of costs incurred by an electrical corporation  
10 since the preceding report.

11 (7) Any change in the electrical load serviced by an electrical  
12 corporation since the preceding report.

13 (b) The commission may combine the information required by  
14 this section with the reports prepared pursuant to Article 16  
15 (commencing with Section 399.11) of Chapter 2.3.

16 ~~SEC. 28. Section 1005.1 is added to the Public Utilities Code,~~  
17 ~~to read:~~

18 ~~1005.1. (a) The commission shall issue a decision on an~~  
19 ~~application for a certificate within 18 months of the date of filing~~  
20 ~~of the completed application, when all of the following are true:~~

21 ~~(1) The application is for a certificate for building or upgrading~~  
22 ~~an electrical transmission line that the commission finds necessary~~  
23 ~~to provide transmission to load centers for electricity generated in~~  
24 ~~a high priority renewable energy zone or is reasonably necessary~~  
25 ~~to facilitate achievement of the renewables portfolio standard~~  
26 ~~established in Article 16 (commencing with Section 399.11) of~~  
27 ~~Chapter 2.3.~~

28 ~~(2) The commission has considered all of the following:~~

29 ~~(A) The utilization of rights-of-way by upgrading existing~~  
30 ~~transmission facilities instead of building new transmission~~  
31 ~~facilities, where technically and economically justifiable.~~

32 ~~(B) The expansion of existing rights-of-way, if technically and~~  
33 ~~economically feasible, when construction of new transmission~~  
34 ~~lines is required.~~

35 ~~(C) The creation of new rights-of-way when justified by~~  
36 ~~environmental, technical, and economic reasons.~~

37 ~~(D) The availability of cost-effective alternatives to transmission,~~  
38 ~~such as energy efficiency measures and distributed generation.~~

39 ~~(3) The commission has not expressly found any of the~~  
40 ~~following:~~

1 ~~(A) That the investment is not reasonable and necessary to~~  
2 ~~maintain or enhance reliability of the transmission grid.~~

3 ~~(B) That the building or upgrading of the electrical transmission~~  
4 ~~line will not maintain or enhance efficient use of the transmission~~  
5 ~~grid.~~

6 ~~(C) That the transmission line fails to meet other applicable~~  
7 ~~standards and requirements for approval and construction.~~

8 ~~(b) An extension of time may be granted by the commission if~~  
9 ~~it finds the extension is necessary for completion of review~~  
10 ~~pursuant to the California Environmental Quality Act (Division~~  
11 ~~13 (commencing with Section 21000) of the Public Resources~~  
12 ~~Code).~~

13 *SEC. 15. This bill shall only become operative if this bill and*  
14 *Assembly Bill 64 are both enacted and become effective on or*  
15 *before January 1, 2010.*

16 ~~SEC. 29.~~

17 *SEC. 16.* No reimbursement is required by this act pursuant to  
18 Section 6 of Article XIII B of the California Constitution because  
19 certain costs that may be incurred by a local agency or school  
20 district will be incurred because this act creates a new crime or  
21 infraction, eliminates a crime or infraction, or changes the penalty  
22 for a crime or infraction, within the meaning of Section 17556 of  
23 the Government Code, or changes the definition of a crime within  
24 the meaning of Section 6 of Article XIII B of the California  
25 Constitution.

26 With respect to certain other costs, no reimbursement is required  
27 by this act pursuant to Section 6 of Article XIII B of the California  
28 Constitution because a local agency or school district has the  
29 authority to levy service charges, fees, or assessments sufficient  
30 to pay for the program or level of service mandated by this act,  
31 within the meaning of Section 17556 of the Government Code.

32 ~~SEC. 30.~~

33 *SEC. 17.* The sum of three hundred twenty-two thousand dollars  
34 (\$322,000) is hereby appropriated from the Public Utilities  
35 Commission Utilities Reimbursement Account to the Public  
36 Utilities Commission for additional staffing to identify, review,  
37 and approve transmission lines reasonably necessary or appropriate  
38 to facilitate achievement of the renewables portfolio standard

- 1 established in Article 16 (commencing with Section 399.11) of
- 2 Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

O